

Randwick Local Planning Panel (Public) Meeting

Thursday 27 November 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, 27 November 2025 at 1:00 PM

Acknowledgement of Country

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

Declarations of Pecuniary and Non-Pecuniary Interests

Address of RLPP by Councillors and members of the public

Privacy warning;

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

Development Application Reports

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Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D69/25

Subject: 8 Clyde Street, RANDWICK (DA/222/2020/A)

Executive Summary

Proposal:	Section 4.56 - Modification to the Court approved consent including reduction in the number of parking spaces to 3 including 2 car share spaces, building envelope modifications including the lift core and fire staircase, internal reconfiguration, increase in floor-to-floor heights, addition and changes to balconies, changes to waste arrangements, landscaping amendments, and other associated works.
Ward:	East Ward
Applicant:	Cadele Investments Pty Ltd
Owner:	Cadele Investments Pty Ltd
Cost of works:	\$8,195,776.00
Reason for referral:	The modification application is made under section 4.56 of the <i>Environmental Planning and Assessment Act 1979</i> and seventeen (17) unique submissions by way of objection were received by Council.

Recommendation

That the RLPP, as the consent authority, refuses the application made under section 4.56 of the *Environmental Planning and Assessment Act 1979*, as amended, to modify Development Application No. DA/222/2020/A including reduction in the number of parking spaces to 3 including 2 car share spaces, building envelope modifications including the lift core and fire staircase, internal reconfiguration, increase in floor-to-floor heights, addition and changes to balconies, changes to waste arrangements, landscaping amendments, and other associated works at No. 8 Clyde Street, RANDWICK NSW 2031 for the following reasons:

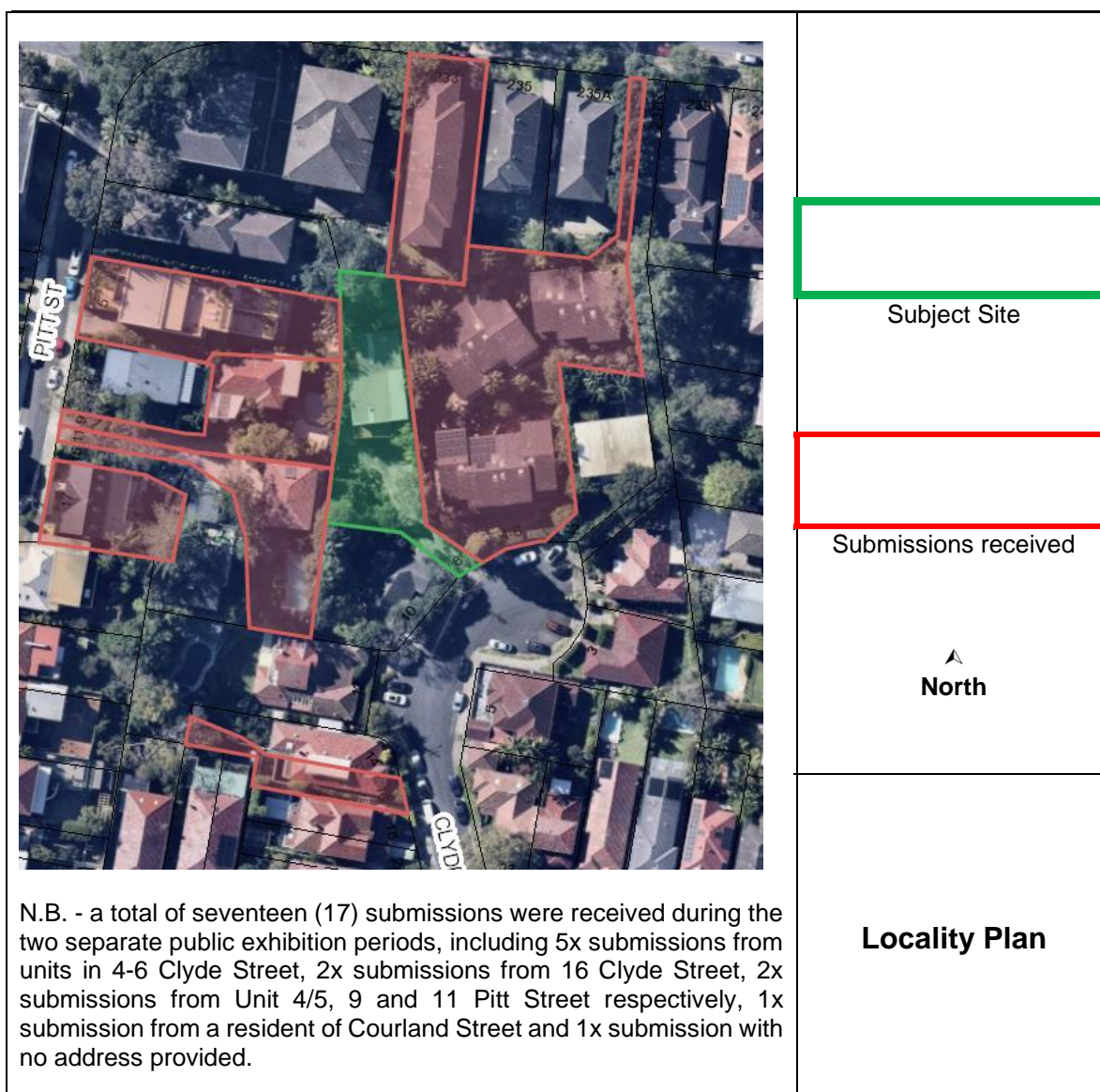
1. Pursuant to the provisions of section 4.56(1)(a) of the *Environmental Planning and Assessment Act 1979*, the application is not substantially the same development as the development for which the consent was originally granted in relation to the amended parking arrangement.
2. Pursuant to the provisions of section 4.56(1A) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development fails to demonstrate compliance with the matters of consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979*, as outlined in the reasons below.
3. Pursuant to the provisions of section 4.56(1A) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development fails to take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified, including the amended parking arrangement, the building height and potential adverse view impacts.
4. Pursuant to the provisions of section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development fails to comply with the objectives of the R3 Medium Density Residential zone in that the development does not adequately protect the amenity of residents.
5. Pursuant to clause 4.3 of RLEP 2012 and section 29(2)(a) of the ARH SEPP 2009, the applicant has failed to demonstrate the view impacts of the additional breach to maximum building height development standard.

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6. Pursuant to section 29(2)(d)(i) of the ARH SEPP 2009, the application does not provide an adequate area for private open space for the boarding house development.
7. Pursuant to section 29(2)(e) of the ARH SEPP 2009, the application does not provide adequate parking for the boarding house development.
8. Pursuant to the provisions of section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development fails to comply with the objectives and controls of the Randwick Development Control Plan 2013:
 - Clause 2.2 of B7 – Car share
 - Clause 5.5 of C2 – View sharing
 - Clause 2.2 of C4 – Outdoor communal open space
9. Pursuant to the provisions of section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* and section 155(6) of the *Environmental Planning and Assessment Regulation 2000*, the application is considered unacceptable in that the applicant has failed to provide a revised BASIX Certificate to account for the design amendments to the development consent.
10. Pursuant to the provisions of section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development will result in adverse social and economic impacts on the locality in terms of parking, views and resident amenity.
11. Pursuant to the provisions of section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development will is not suitable to the site as the proposed development is not substantially the same as the development consent and will adversely affect the amenity of the locality.
12. Pursuant to the provisions of section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development is considered to not be in the public interest as the proposal is inconsistent with the relevant zone objective, will result in significant adverse impacts on the locality, and does not adequately address objections raised in the public submissions in relation to view sharing.

Attachment/s:

Nil



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1. Executive Summary

This modification application is referred to the Randwick Local Planning Panel (RLPP) under Council's Delegation of Authority as it is made under section 4.56 of the *Environmental Planning and Assessment Act 1979* and seventeen (17) unique submissions by way of objection were received by Council.

The development application was not determined by the RLPP as the applicant appealed Council's deemed refusal in Class 1 proceedings in the Land and Environment Court. The appeal of the development application was subsequently upheld by the Court in a judgement following a hearing.

The proposal seeks to modify the development consent DA/222/2020 including reduction in the number of parking spaces to 3 including 2 car share spaces, building envelope modifications including the lift core and fire staircase, internal reconfiguration, increase in floor-to-floor heights, addition and changes to balconies, changes to waste arrangements, landscaping amendments, and other associated works.

The key issues associated with the proposal relate to the parking arrangement, the height of building breach and associated potential view impacts, and the lack of private open space for occupants. The extent of these issues is detailed in the Key Issues section of this report, which remain

fundamental issues that do not justify supporting the amended modification application. In addition, the applicant has failed to provide a revised BASIX Certificate to reflect the design amendments of this application.

For these reasons, the proposal is recommended for refusal.

2. Site Description and Locality

The site comprises Lot 8 in DP 28464 and has a street address of 8 Clyde Street, Randwick. The site has an area of 796.7m², with a frontage of 6.1m wide access handle to Clyde Street. The site is a battle-axe allotment and has a southern (front) boundary width of approximately 20.3m and a northern (rear) boundary width of 11.28m. The site has a depth of 49.165m along the eastern side boundary and 49.8m along the western side boundary. The site has a steep fall from the northern (rear) boundary to the southern (front) boundary of approximately 13m.

The site currently contains a split-level brick dwelling with metal roof. A double garage is located on the ground floor, with two (2) floor levels above. A pathway and stairs along the western boundary provide pedestrian access from the front to the rear of the site. The site contains several trees.

The site contains an easement for stormwater channel across the south-west corner and Sydney Water sewer across the northern part of the site.

Clyde Street is a cul-de-sac and predominantly contains a mix of single and two storey dwellings, with other development comprising town houses and four storey residential flat buildings at the corner of Clyde Street and Oswald Street to the south of the site.

Development adjoining to the north comprises four and six storey residential flat buildings fronting Alison Road. Development adjoining to the east comprises a two storey townhouse development above ground level parking at 4-6 Clyde Street. Development adjoining to the west comprises three and four storey brick units at No. 3 and 5 Pitt Street, and two to four storey dwellings at No. 9 and 11 Pitt Street. Immediately adjoining the site to the south is a single storey dwelling at No. 10 Clyde Street.

The development consent under DA/222/2020 has yet to be activated and no works have been carried out to date.



Figure 1: Photo of the front of the site to Clyde Street (*Source: Randwick City Council*)

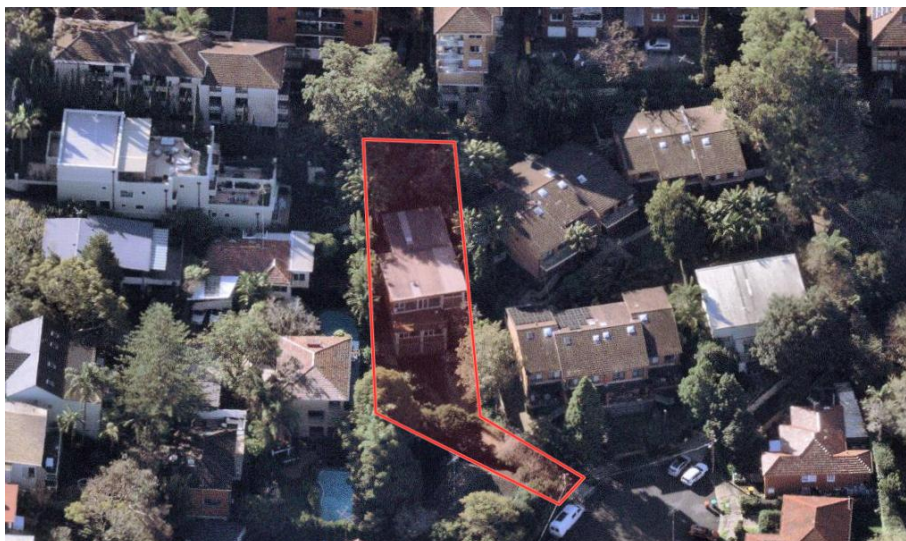


Figure 2: Northern oblique view of the subject neighbourhood and site highlighted in red (July 2025)
(Source: Nearmap)

3. Relevant History

The land has been used for residential purposes for an extended period of time.

DA/553/2017

Development Application DA/553/2017 for the demolition of all structures and erection of a part 3/part 4 storey residential flat building comprising 7 dwellings and basement parking for 10 cars and removal of 24 trees was approved by Randwick Local Planning Panel on 13 September 2018.

DA/553/2017/A

Modification Application DA/553/2017/A for the Modification of approved development by reduction in number of dwellings to 6, reconfiguration of ground level including reinstatement of 10 carpark spaces, alteration to level 1 stairs, reconfiguration of level 3, level 4 combined with lower level, with changes to allow for alteration to bedroom numbers for some dwellings was approved by the Randwick Local Planning Panel on 8 August 2019.

PL/25/2023

Pre-Lodgment Application PL/25/2023 sought Council advice on lodging a Section 4.56 Modification Application including changes to the built form and layout. Written advice was provided to the applicant on 27 November 2023. The advice confirmed the following regarding the parking rates:

“Plans submitted for any future S4.56 modification shall comply with the minimum parking provision of 14 spaces or equivalent based on the configuration of 26 rooms + 1 managers. With one carshare space being the accepted equivalent of 5 spaces, the required physical provision would therefore be 10 spaces (including the carshare space).”

4. Details of Current Approval

On 22 May 2020, the original development application was lodged with Council. The application sought consent for demolition of existing structures and construction of a part 3 and part 4 storey boarding house containing 29 boarding rooms and 1 manager's room, 2 x communal living rooms and 2 x communal outdoor areas, subterranean car parking, tree removal, landscaping and associated works.

On 16 July 2020, the applicant filed a Class 1 Application with the Land and Environment Court against Council's deemed refusal of the development application.

On 1 December 2020, the matter was listed for a Section 34 conference, which was subsequently terminated.

On 11 and 12 May 2021, the matter was subject to a hearing in the Court.

On 24 August 2021, the Court upheld the appeal of the amended development application, subject to orders requiring that the amended development application be submitted through the NSW Planning Portal.

On 18 October 2021, the Court upheld the appeal of the amended development application.

The development consent issued was for demolition of existing structures and construction of a part 3 and part 4 storey boarding house containing 26 boarding rooms and 1 manager's room, 2 x communal living rooms, 1 x communal outdoor area, subterranean car parking, tree removal, landscaping and associated works

See Figure's 3-11 below showing the approved architectural plans:

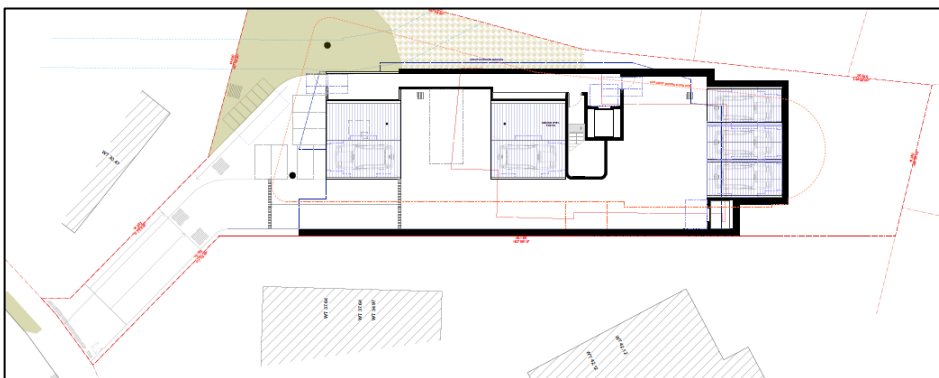


Figure 3: Approved ground floor plan under DA/222/2020 (Source: SHED)

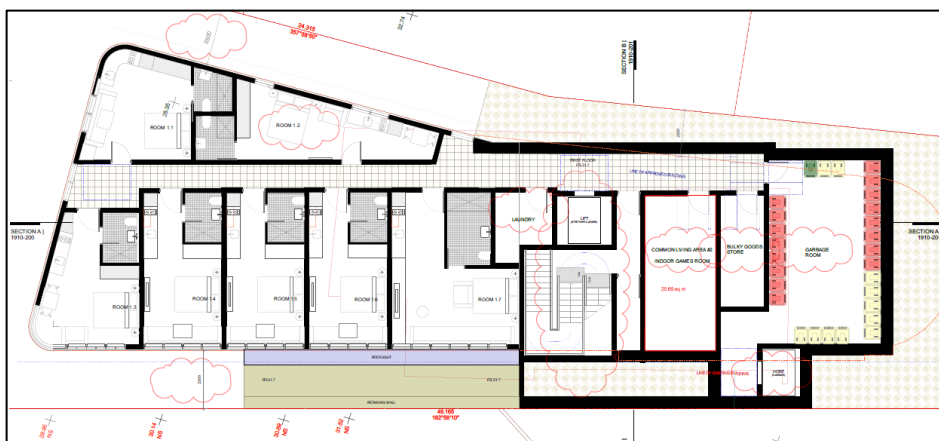


Figure 4: Approved first floor plan under DA/222/2020 (Source: SHED)

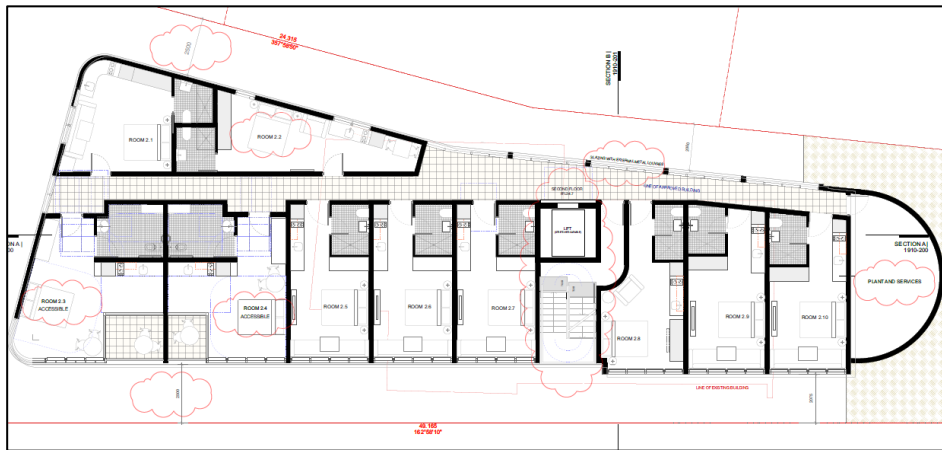


Figure 5: Approved second floor plan under DA/222/2020 (Source: SHED)

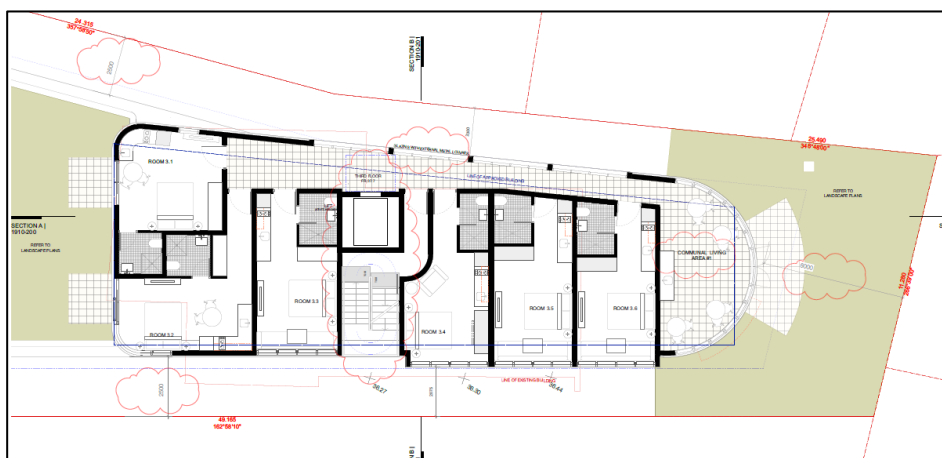


Figure 6: Approved third floor plan under DA/222/2020 (Source: SHED)

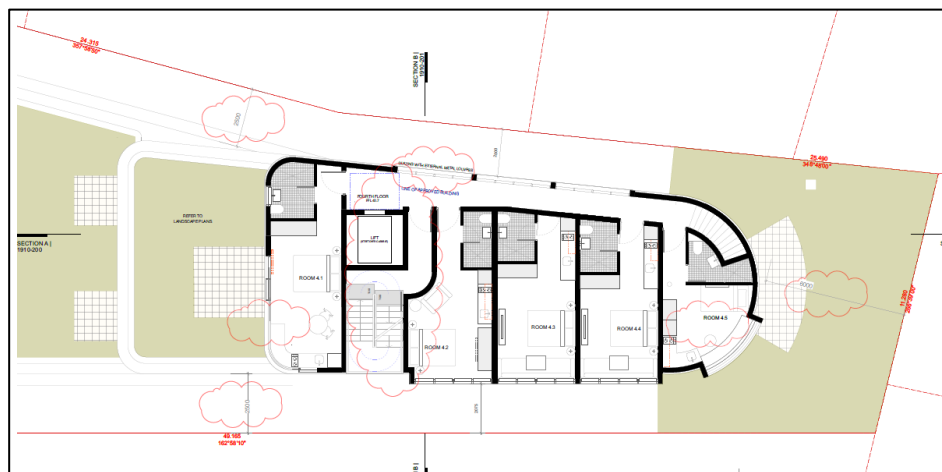


Figure 7: Approved fourth floor plan under DA/222/2020 (Source: SHED)



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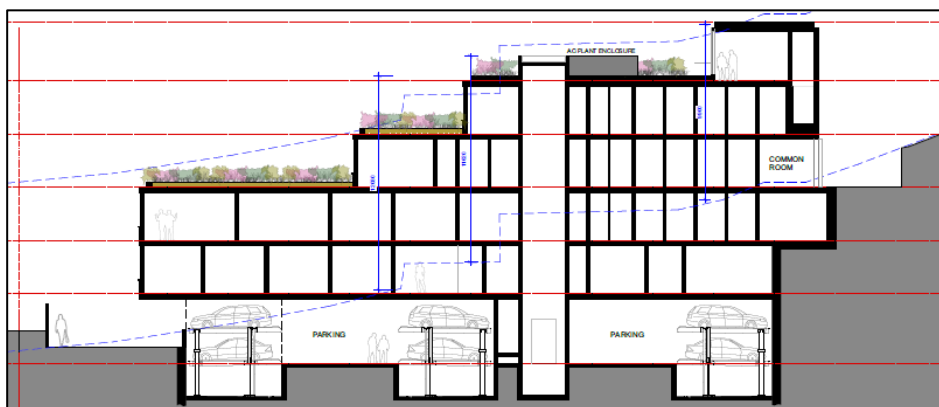


Figure 11: Approved long section under DA/222/2020 (Source: SHED)

The development consent included the following relevant conditions:

Amendment of Plans & Documentation

2. *The approved plans and documents must be amended in accordance with the following requirements:*

- a. *All of the recommendations of the report of Vince Doan and Jason Rider (as Exhibit 5 in Land and Environment Court proceedings 2020/208862) (Traffic Impact Report) are to be implemented for the basement level carpark and incorporated into the construction certificate application, including but not limited to:*
 - i. *the removal of the 2x3 vehicle car stackers in the first aisle of the carpark as shown ground floor plan to be replaced with three standard spaces one care share, one accessible and one manager's space.*
 - ii. *The second aisle shall have a 1:20 gradient*
 - iii. *collection of waste shall be from the street with the temporary storage of the waste bins, prior to collection, within the Site's access handle.*
- b. *All of the recommendations in the acoustic report of PWNA (dated 11 May 2021, Acoustic Report) are to be implemented and incorporated into the construction certificate application including those concerning:*
 - *the external glass acoustic requirements*
 - *installation of acoustic absorptive surface finish to the underside of common area soffit with a minimum NRC of 0.6 or greater; and*
 - *vibration isolation to car stackers.*
- c. *The external glazing to the western corridors on all levels shall be fixed. That is, there are to be no openable glazing available to the corridors.*
- d. *The kitchen bench within the common room shall be relocated to the south-eastern corner of the room to allow for the placement of furniture within that room so as to maximises solar access.*
- e. *The entire Room 4.1 including the associated terrace area on fourth floor level shall be deleted and the entire area shall be used as non-trafficable roof with appropriate landscaping.*
- f. *External louvres covering the full height of the window openings to the western corridors on all levels shall be constructed with either:*
 - *Fixed lattice/slats with individual openings not more than 30mm wide;*
 - *Fixed vertical louvres with the individual blades angled and spaced appropriately to prevent overlooking and control light spill from the access corridors into the private open space or windows of the adjacent dwellings.*

- g. *The glass louvres to the boarding room windows on the eastern elevation and northern side of the balcony for Manager's room are to be fixed up to 1.6m in height (above the finished floor level) and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height.*
- h. *The habitable area within each boarding room and communal area must have a minimum floor to ceiling height of 2.7m. Additional details such as reflective ceiling plan and detailed sections must be provided.*
- i. *The balconies off boarding room numbers 3.1 and 3.2 are to be deleted. The balcony to room number 4.1 is also removed by the imposition of condition 2 (c). The doors will be replaced with windows but be of a design that allows access to the terrace to maintain the landscaping.*
- j. *The managers balcony is to be 8sqm in size, in one area and have both western and eastern privacy screens to a height of 1.8 metres.*
- k. *Accommodation shall be provided on the basis that there are to be a maximum of 18 single rooms, being rooms numbered 1.4, 1.5, 1.6, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 3.1, 3.3, 3.4, 3.5, 3.6, 4.2, 4.3, 4.4 and 4.5 and the remaining to be double rooms. The total number of boarders residing within the development is limited to a maximum of 34.*

Car Share Space

4. *A total of one car space within the development shall be reserved for use by a carshare vehicle. The carshare vehicle is to be provided and operated by the boarding house owners/operators for the use of the boarding house residents only.*

The Plan of Management shall be amended to include the following requirements;

The car share space must:

- *be made available to all lodgers without charge other than usage costs.*
- *be signposted for use only by car share vehicles and be well lit.*
- *be accessible to all lodgers at all times.*
- *be subject to arrangements that link the registration of the car used in the car share space to the operator of the boarding house, with evidence of that arrangement to be provided to Council's satisfaction prior to the issuing of any occupation certificate*
- *be made available at the same time the boarding house commences operations.*
- *be accompanied by adequate insurances including public liability; and*
- *be accompanied by promotional strategies to encourage awareness and participation of residents of the development in the scheme.*

*NOTE: The failure to provide ~~two~~ one **registered, insured and functional** carshare vehicle for occupants will be considered a direct breach of the Operational Plan of Management and the Development Consent. Any proposal to remove the car share vehicle could only be considered as part of a Section 4.55/4.56 application.*

5. Section 4.56 Modification Application

The original proposal sought consent for modification to the approved DA including changes to the access and basement parking arrangements, internal arrangement, common room size and layout, Level 4 arrangement, floor to floor height (3.2m proposed), orientation/design of balconies, minor envelope modifications, room layout to provide 18 single rooms and 8 double rooms and waste arrangements. This included a six storey car stacker to provide for the required car parking for the boarding house development. Figure 12 below shows the extent of the car stacker below:



Figure 12: Originally proposed eastern elevation showing the car stacker system (Source: *TonkinZulaikhaGreer*)

On 24 January 2025, Council raised issues with the applicant regarding the mechanical car-stacker, compliance with LEC consent conditions relating to privacy, the western façade and ground floor boarding room.

On 10 February 2025, the applicant lodged an amended modification application through the NSW Planning Portal to address the above additional information request including further technical details of the car stacker and notations on the architectural set to clarify issues raised.

On 7 April 2025, Council's Design Excellence Advisory Panel (DEAP) met with the applicant to discuss the modification application. Comments from this meeting are provided in Appendix 1 of this report. The DEAP was generally supportive of the building envelope changes that improve the massing of the building. However, design amendments were recommended to the building entry and in terms of amenity, the DEAP raised issues with the ground floor room, communal indoor areas and Unit 1.06 (in particular). The DEAP also raised their views in relation to a reduced need for car parking to meet minimum requirements on the site, including concerns about the car stacker. Their comments note that the boarding house location, within relative proximity to Randwick Town Centre and public transport routes, could reduce parking rates for this development. The DEAP was also supportive of carshare.

On 30 May 2025, the applicant lodged an amended modification application through the NSW Planning Portal. This included the deletion of the car stacker and provision of only 2x parking spaces (including 1x carshare space), as well as changes to the ground and first floor configuration including to rooms and communal areas.

On 23 June 2025, a new set of experts of Council's DEAP met with the applicant to discuss the amended modification application. Comments from this meeting are provided in Appendix 1 of this report. The DEAP raised issues with the amenity of rooms and communal areas throughout the development. The DEAP did not comment on the proposed parking rate of the amended modification application.

On 27 June 2025, the applicant lodged an amended modification application through the NSW Planning Portal to address the concerns raised by the DEAP in the above meeting. The main plan changes were to the first floor communal living and laundry area.

On 12 August 2025, Council issued a further formal additional information request to the applicant outlining issues with the parking rate, western façade, boarding room configuration and amenity, private open space, balconies, privacy, view sharing, building entrance, BCA issues, landscaped areas, and other minor items.

On 29 August 2025, Council officers met online with the applicant's project team to discuss the contents of the above additional information request. Considering the history of the application,

Council officers offered the applicant to opportunity for Council to review preliminary plans prior to the formal lodgement response to the additional information request.

On 3 November 2025, the applicant lodged an amended modification application through the NSW Planning Portal, of which Council accepted to formally amended the modification application. It is noted that the applicant's team did not discuss the amended modification application with Council officers following the 29 August 2025 meeting above. N.B. The amended plans did not significantly increase the external bulk or built form of the proposal, result in any additional adverse impacts to neighbours, or result in additional non-compliances with the RDCP 2013. Therefore, re-notification of the proposal was not required.

6. Proposed Amended Modification Application

Modification Application No. DA/222/2020/A submitted under the provisions of section 4.56 of the *Environmental Planning & Assessment Act 1979* (as amended on 3 November 2025) seeks to delete conditions No. 2(a)-(j), 15 and 68(ii), and to amend conditions 2(k), 12, 25, 32, 34 and 67, each of which has been reproduced below with comments from the applicant addressing each component:

Conditions to be Deleted

Condition 2(a)-(j) 'Amendment of Plans & Documentation'

2. The approved plans and documents must be amended in accordance with the following requirements:

- a. ***All of the recommendations of the report of Vince Doan and Jason Rider (as Exhibit 5 in Land and Environment Court proceedings 2020/208862) (Traffic Impact Report) are to be implemented for the basement level carpark and incorporated into the construction certificate application, including but not limited to:***
 - i. ***the removal of the 2x3 vehicle car stackers in the first aisle of the carpark as shown ground floor plan to be replaced with three standard spaces one car share, one accessible and one manager's space.***
 - ii. ***The second aisle shall have a 1:20 gradient***
 - iii. ***collection of waste shall be from the street with the temporary storage of the waste bins, prior to collection, within the Site's access handle.***

Applicant comments:

The recommendations of the report of Vince Doan and Jason Rider have been adopted (except where amended by the advice of the DEAP). As recommended by the DEAP, car stackers have been removed from the development and replaced with one accessible space and one car share space. A 1:10 ramp is used to lower vehicles down into the car park. The Ground Level has been modified to accommodate a dedicated waste holding area. The car parking slab will be graded to accommodate drainage. An entry shared zone can accommodate a line of waste bins for Council collection.

Council comments:

Council is not supportive of the proposed parking arrangement. See Key Issues for a detailed assessment of this matter.

- b. ***All of the recommendations in the acoustic report of PWNA (dated 11 May 2021, Acoustic Report) are to be implemented and incorporated into the construction certificate application including those concerning:***
 - ***the external glass acoustic requirements***
 - ***installation of acoustic absorptive surface finish to the underside of common area soffit with a minimum NRC of 0.6 or greater; and***
 - ***vibration isolation to car stackers.***

Applicant comments:

None provided.

Council comments:

Should the modification application have been supported, Council would have imposed requirements that the revised Acoustic Report design and operational requirements would have been implemented as part of the consent.

- c. *The external glazing to the western corridors on all levels shall be fixed. That is, there are to be no operable glazing available to the corridors.***

Applicant comments:

Windows to the western corridors have been deleted. The corridors are now internalised.

Council comments:

Should the modification application have been supported, Council would support amending this condition requiring only the western lobby glazing to be fixed to a height of 1.6m to reduce acoustic impacts but to allow some natural ventilation to the circulation area.

- d. *The kitchen bench within the common room shall be relocated to the south-eastern corner of the room to allow for the placement of furniture within that room so as to maximises solar access.***

Applicant comments:

The common room has been reconfigured to 30m². The kitchen bench is located behind the stair on the southern end of the room. This allows for good solar access into the seating area of the common room.

Council comments:

Should the modification application have been supported, Council would support deleting this condition as the level 3 CLA has provided the kitchen within the southern side of the room.

- e. *The entire Room 4.1 including the associated terrace area on fourth floor level shall be deleted and the entire area shall be used as non-trafficable roof with appropriate landscaping.***

Applicant comments:

This room and terrace has been deleted. The egress stair and lift have been reconfigured to ensure that the room on the southern side of the floor plate can enjoy the view and amenity from the south.

Council comments:

Should the modification application have been supported, Council would support deleting this condition as the envelope of the southern side of level 4 is consistent with the requirement for the deletion of Room 4.01 in the development application.

- f. *External louvres covering the full height of the window openings to the western corridors on all levels shall be constructed with either:***

- ***Fixed lattice/slats with individual openings not more than 30mm wide;***
- ***Fixed vertical louvres with the individual blades angled and spaced appropriately to prevent overlooking and control light spill from the access corridors into the private open space or windows of the adjacent dwellings.***

Applicant comments:

Western corridor has been removed. The extent of glazing on the western facade is minimal and is proposed to be translucent adjacent the lift shaft.

Council comments:

Should the modification application have been supported, Council would have required this condition to continue to be imposed in that the window to the lobby would still

impose a light spillage impact to the western adjoining neighbours (consistent with the Court judgement requiring this condition to be imposed).

- g. The glass louvres to the boarding room windows on the eastern elevation and northern side of the balcony for Manager's room are to be fixed up to 1.6m in height (above the finished floor level) and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height.**

Applicant comments:

The glazing facing east has been modified to minimise overlooking to neighbours as well as maximising internal amenity of rooms. All windows on the eastern elevation have been angled to face south or north so as not to impact on the privacy of the private open space of 4-6 Clyde Street. Glazing facing east and north-east to the manager's room has been deleted.

Council comments:

Should the modification application have been supported, Council would required this condition to continue to be imposed to northern windows to ensure adequate privacy is maintained to northern adjoining neighbours.

- h. The habitable area within each boarding room and communal area must have a minimum floor to ceiling height of 2.7m. Additional details such as reflective ceiling plan and detailed sections must be provided.**

Applicant comments:

Level 1 Floor slab has been lowered. New floor to floor height are set at 3200mm, which allow for a 2.7m ceiling height in all habitable areas.

Council comments:

Should the modification application have been supported, Council would support deletion of this condition as a 2.7m F2C height is provided to the amended modification application.

- i. The balconies off boarding room numbers 3.1 and 3.2 are to be deleted. The balcony to room number 4.1 is also removed by the imposition of condition 2 (c). The doors will be replaced with windows but be of a design that allows access to the terrace to maintain the landscaping.**

Applicant comments:

External walls have been angled to face south-east to protect the visual privacy of 11 and 9 Pitt Street. The small balconies off these newly orientated rooms have solid blade walls that are 2100mm high and project past the balustrade line. These assist with overlooking as well as noise control. The balcony to the Level 4 room has been removed.

Council comments:

Should the modification application have been supported, Council would support deletion of this condition in that the balconies to Rooms 3.01 and 3.05 (renumbered from 3.1 and 3.2 as per the condition) have blade walls to each side that will prevent overlooking adjoining neighbours at 4-6 Clyde Street. See Figure 13 below showing the overlook perspective from these balconies.



Figure 13: View from balconies 3.01 and 3.05 respectively (Source: TonkinZulaikhaGreer)

- j. ***The managers balcony is to be 8sqm in size, in one area and have both western and eastern privacy screens to a height of 1.8 metres.***

Applicant comments:

Manager's balcony has been reconfigured to face south-east and has solid blade walls east and west to minimise overlooking.

Council comments:

Should the modification application have been supported, Council would support deletion of this condition in that the managers balcony has blade walls with a height of 1.9m to prevent overlooking impacts to adjoining neighbours.

Condition 15 'BASIX Requirements'

15. ***In accordance with section 4.17 (11) of the Environmental Planning & Assessment Act 1979 and clause 97A of the Environmental Planning & Assessment Regulation 2000, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.***

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

Applicant comments:

State Environmental Planning Policy (Sustainable Buildings) 2022:

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

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

As we are a class a 3 boarding house under the BCA our understanding from the above is that BASIX does not apply.

Council comments:

Section 2 under Part 1, Schedule 6 'Savings, transitional and other provisions' of the EP&A Regs 2021 states that any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.

The development consent for a boarding house was a 'BASIX affected development', in accordance with the 2000 Regulations and BASIX SEPP, and therefore continues to be applicable for the development. The applicant has failed to provide a revised BASIX Certificate to account for the design changes under the amended modification application. Without a revised BASIX Certificate, consent cannot be granted to the modification application. As such, the development is recommended for refusal.

Condition 68 'Pruning'

- 68. Permission is granted for the minimal and selective pruning of those lower growing, lower order branches and fronds, only where they need to be pruned in order to avoid damage; or; interference with the approved works, from the following:**

...

ii. The eastern aspect of T19, *Jacaranda mimosifolia* (Jacaranda), located beyond the western site boundary, wholly on the adjoining private property at 9 Pitt Street, if needed so as to provide a clearance for the western wall of the new building, scaffolding and similar works;

...

Applicant comments:

Delete reference to Tree 19 - Jacaranda as it has been removed by others.

Council comments:

Council's Landscape Officer is satisfied that Tree 19 can be removed. Should the modification application have been supported, the condition would have been recommended to be deleted condition 68(ii) which has reference to Tree 19.

Conditions to be Amended

Condition 2(k) 'Amendment of Plans & Documentation'

- 2. (k) Accommodation shall be provided on the basis that there are to be a maximum of 18 single rooms, being rooms numbered 1.4, 1.5, 1.6, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 3.1, 3.3, 3.4, 3.5, 3.6, 4.2, 4.3, 4.4 and 4.5 and the remaining to be double rooms. The total number of boarders residing within the development is limited to a maximum of 34.**

Applicant comments:

The condition in relation to the maximum number of boarding house residents (34) is to be retained.

Council comments:

Should the modification application have been supported, Council would have recommended the condition be revised to reflect the new room numbering.

Condition 12 'Tree Protection Measures'

- 12. In order to ensure retention of the *Lophostemon confertus* (Brush Box, T12) that is located beyond the southwest site corner, within 10 Clyde Street, the *Jacaranda mimosifolia* (Jacaranda, T19) beyond the western boundary, within 9 Pitt Street; T20-22, 24, 27-28, which are located wholly within no.9, 7, 5 & 3 Pitt Street respectively, the *Ficus rubiginosa* (Port Jackson Fig, T31), right in the northwest site corner, and lastly, the *Lagerstroemia indica* (Crepe Myrtle, T40), and various other neighbouring palms and shrubs, being T41-45, wholly within 4-6 Clyde Street in good health, the following measures are to be undertaken:**

...

Applicant comments:

Delete reference to Tree 19 - Jacaranda (which is on 9 Pitt Street) as it has been removed by others and Tree 34 which is dead.

Council comments:

Council's Landscape Officer is satisfied that Trees 19 and 34 can be removed. Should the modification application have been supported, the condition would have been recommended to be updated to delete reference to Trees 19 and 34.

Condition 25 'Stormwater Drainage & Flood Management'

- 25. A new drainage pit is to be constructed within the development site adjacent to the southern boundary and within the existing Council drainage easement, and the existing 1.2m diameter Council drainage pipe upstream from this point is to be replaced in its current position and sized for the critical 1% AEP (1 in 100 yr) storm event. The extent of the upgrade shall continue to a suitable point clear of the Level 1 overhang on the western side. The works shall not adversely affect Tree T19 and shall be subject to approval by a level 5 arborist. The upgrade works shall be the subject of a CCTV survey on completion to be provided to Council.**

Applicant comments:

Delete reference to Tree 19 as it has been removed by others

Council comments:

Council's Landscape Officer is satisfied that Tree 19 can be removed. Should the modification application have been supported, the condition would have been recommended to be updated to delete reference to Tree 19.

Condition 32 'Waste Management'

- 32. The garbage room shall be sized to contain a total of 32 x 240 litre bins (comprising 15 garbage bins, 15 recycle bins & 2 FOGO bins) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.**

Applicant comments:

Modify to show the modified number of bins as recommended by Council in the pre-lodgement advice. An amended Waste Management Plan has been prepared which calculates that the modified development requires 23 bins comprising 11 garbage bins, 11 recycle bins and 1 organics bins. The area saved is dedicated to bulky waste (10m2).

Council comments:

Should the modification application have been supported, Council would have recommended that the waste condition be revised to include updated waste room size requirements.

Condition 34 'Landscape Plans'

- 34. 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 revised Landscape Plans by Melissa Wilson, dwg's LS01-08, issue E, dated 09/03/21, and LSO5 Issue F dated 4 May 2021 with both this written statement and amended plans to then be submitted to, and be approved by, the Principal Certifier.**

Applicant comments:

Modify the approved Landscape Plans to list the MA Amended Landscape Plans prepared by Melissa Wilson.

Council comments:

Should the modification application have been supported, Council would have recommended that the reference to the landscape plans be updated to reference the revised plans.

Condition 67 'Tree Removal'

- 67. Approval is granted for removal of the following vegetation from within this development site so as to accommodate works in these same areas, as has been shown on the Landscape Plans by Melissa Wilson, dwg's LS01-08, issue E, dated**

09/03/21, as well as in the Arboricultural Comment by Tree Wise Men Pty Ltd, dated 11/03/21:

Applicant comments:

Modify the Landscape Plan and the Arboricultural Impact Assessment references (noting that Tree 19 by others and proposed removal of Tree 34 which is dead).

Council comments:

Council's Landscape Officer is satisfied that Trees 19 and 34 can be removed, in accordance with the revised Arboricultural Impact Assessment and amended landscape plans. Should the modification application have been supported, the condition would have been recommended to be updated to refer to the revised Arboricultural Impact Assessment and landscape plans.

Detailed Description of Plan Amendments

The proposed modification seeks the following amendments to the approved architectural plans:

Lower Ground Floor

- Addition of a new lower ground floor containing:
 - Fire pump room.
 - Fire pump tank.
 - Rainwater tank.
 - OSD tank.
 - 2x fire egress and lift access.

Ground Floor

- Reconfiguration of entire floor including:
 - New building entrance and seated area within the undercroft area.
 - Reduction of approved vehicle parking from a total of 11x spaces (including 1x carshare and 3x car stackers) to 3x spaces (including 2x carshare) with a turntable.
 - Reduction of approved motorbike parking from 6x spaces to 5x spaces.
 - Relocation of waste storage, bulky storage room, storage room, and services room to the floor.
 - Amendment to provide 26x bicycle parking spaces and 5x motorbike parking spaces.
 - Introduction of additional planters and deep soil areas to the eastern side of the site.
 - Relocation of lift core and fire access including a new external fire egress along the western side of the building.

First Floor

- Reconfiguration of entire floor including:
 - Increase from 7x approved rooms to 8x rooms (being 5x single and 3x double occupancy rooms).
 - Addition of a combined laundry/waiting area.
 - Relocation of the lift core and fire stair to the western side of the building.
 - Relocation of the lobby and circulation area to the middle of the building.
 - Relocation of the waste room and bulky storage room to the ground floor.

Second Floor

- Reconfiguration of entire floor including:
 - Increase from 7x approved rooms to 9x rooms (being 6x single and 3x double occupancy rooms).
 - Addition of a 5.25m² storage room.
 - Relocation of the lift core and fire stair to the western side of the building.
 - Relocation of the lobby and circulation area to the middle of the building.
 - Relocation of the plant and service rooms to the lower ground floor/ground floor.

Third Floor

- Reconfiguration of entire floor including:
 - Decrease from 6x approved rooms to 5x rooms (being 4x single and 1x double occupancy rooms), 2x rooms being 3.01 and 3.05 with balconies to the south.
 - Extension of the communal living room to 30m² with an adjoining 10m² outdoor sunken balcony with a BBQ, seating area and retractable awning above.
 - Relocation of the lift core and firestair to the western side of the building.
 - Relocation of the lobby and circulation area to the middle of the building.
 - Retention of the non-trafficable green roof to the southern part of the floor below.

Fourth Floor

- Reconfiguration of entire floor including:
 - Decrease from 5x approved rooms to 4x rooms (being 3x single and 1x double occupancy rooms).
 - Relocation of the lift core and firestair to the western side of the building.
 - Relocation of the lobby and circulation area to the middle of the building.
 - Retention of the non-trafficable green roof to the southern part of the floor below.

Fifth Floor

- Reconfiguration of entire floor including:
 - Retention of the manager's room to the floor with a 8.66m² balcony to the southern side of the room and 1.9m blade walls to each side.
 - Relocation of the firestair to the western side of the building.
 - Retention of the airconditioning condensor and plant enclosure to the southern part of the floor below.
 - Retention of the non-trafficable green roof to the southern part of the floor below.

The modification seeks to largely retain the approved building envelope (as conditioned to delete Room 4.01) but introduces saw tooth wall sections, which orientates windows to oblique angles (rather than directly overlook adjoining neighbours). Other envelope changes are to the eastern boundary setback area to create Room 1.05 and the adjoining sunken balcony, as well as changes to the northern rear form to convert the curved form to a square form.

The amended modification application does not change the number of approved 26 boarding rooms and 32 occupants (excluding the building manager).

Figures 14-22 below are excerpts of the amended modification application.

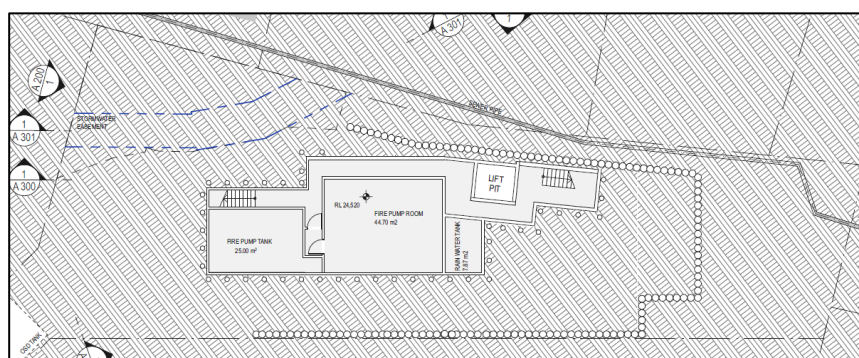


Figure 14: Proposed lower ground floor plan (Source: TonkinZulaikhaGreer)

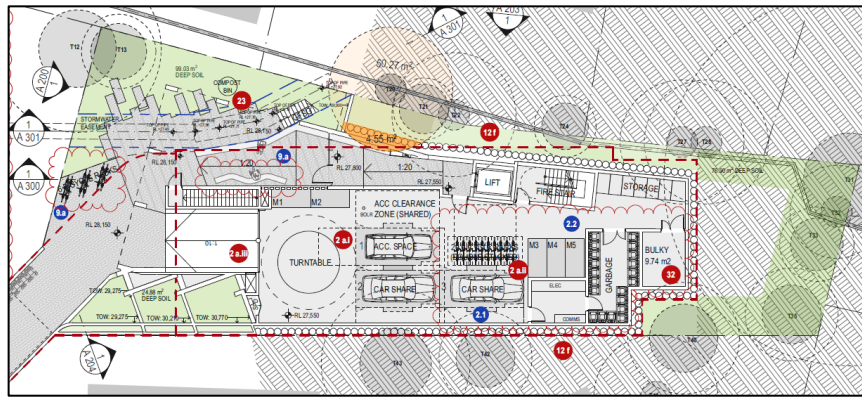


Figure 15: Proposed ground floor plan (Source: TonkinZulaikhaGreer)

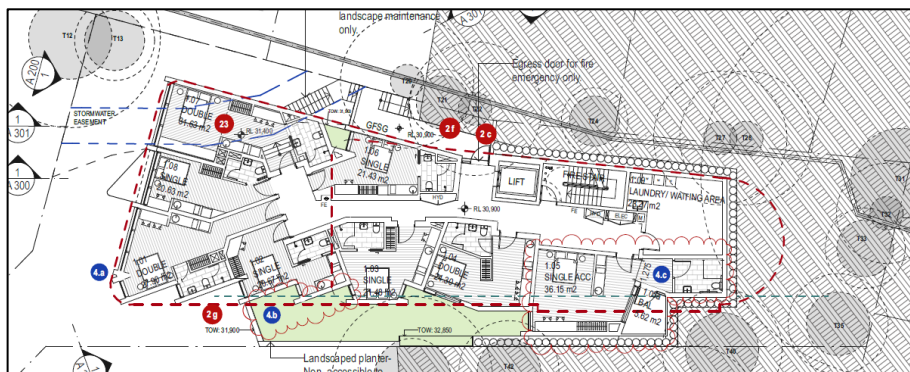


Figure 15: Proposed first floor plan (Source: TonkinZulaikhaGreer)

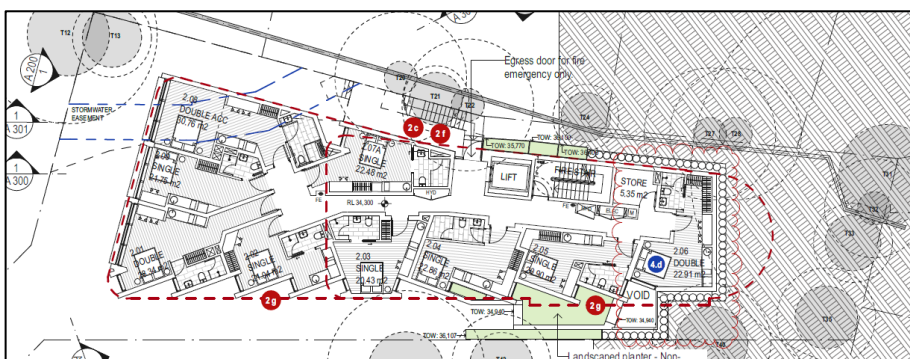


Figure 16: Proposed second floor plan (Source: TonkinZulaikhaGreer)

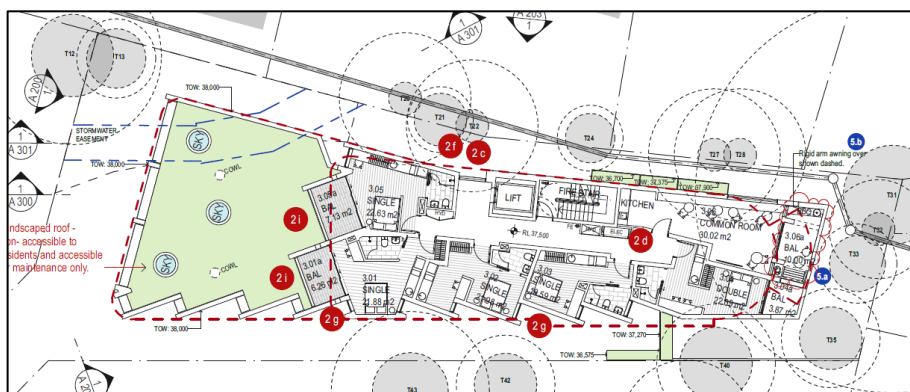


Figure 17: Proposed third floor plan (Source: TonkinZulaikhaGreer)

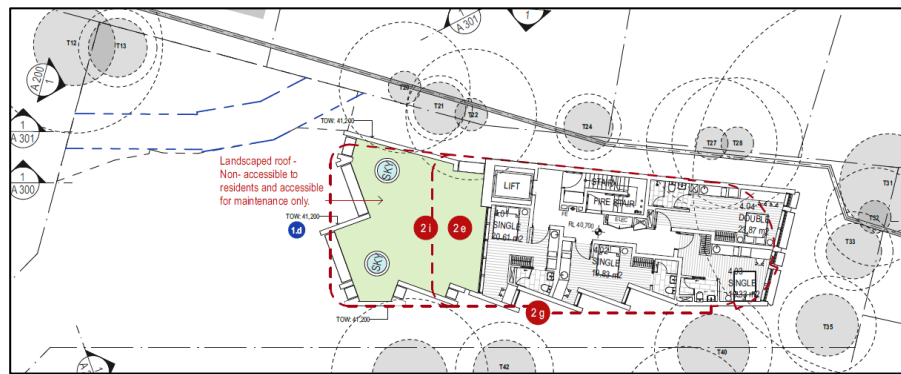


Figure 18: Proposed fourth floor plan (Source: TonkinZulaikhaGreer)

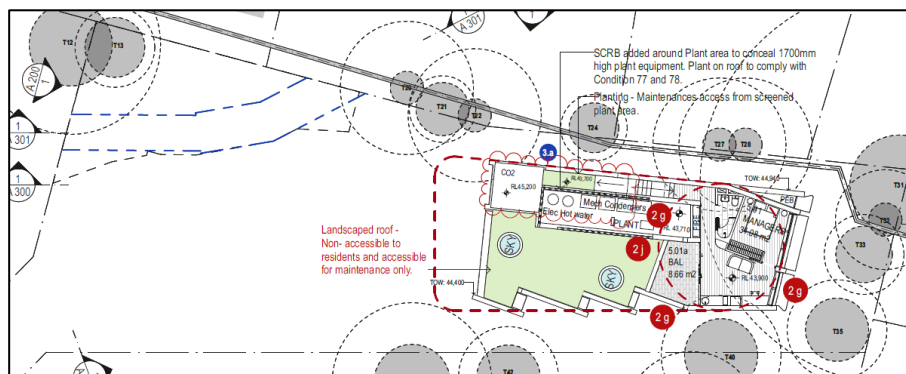


Figure 19: Proposed fifth floor plan (Source: TonkinZulaikhaGreer)

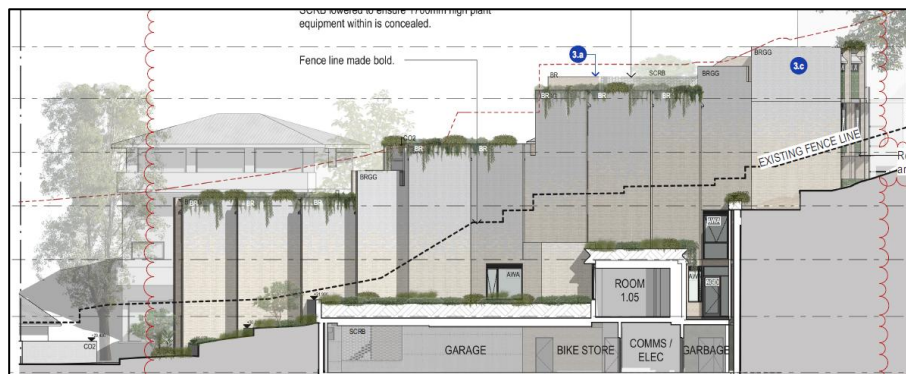


Figure 20: Proposed eastern elevation (Source: TonkinZulaikhaGreer)

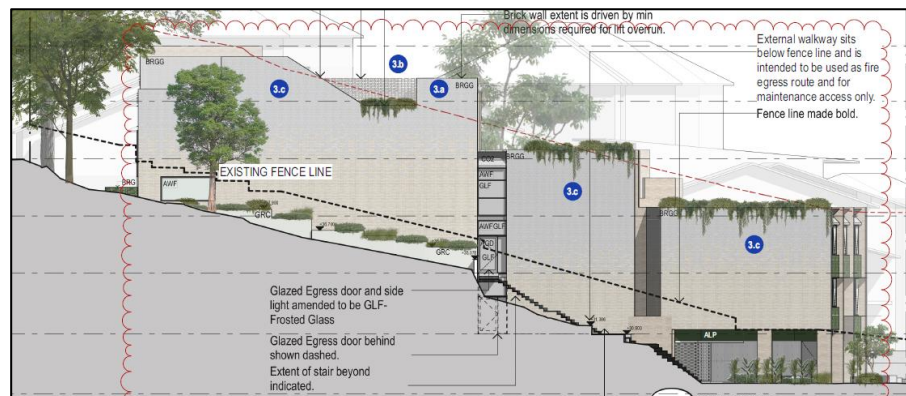


Figure 21: Proposed western elevation (Source: TonkinZulaikhaGreer)

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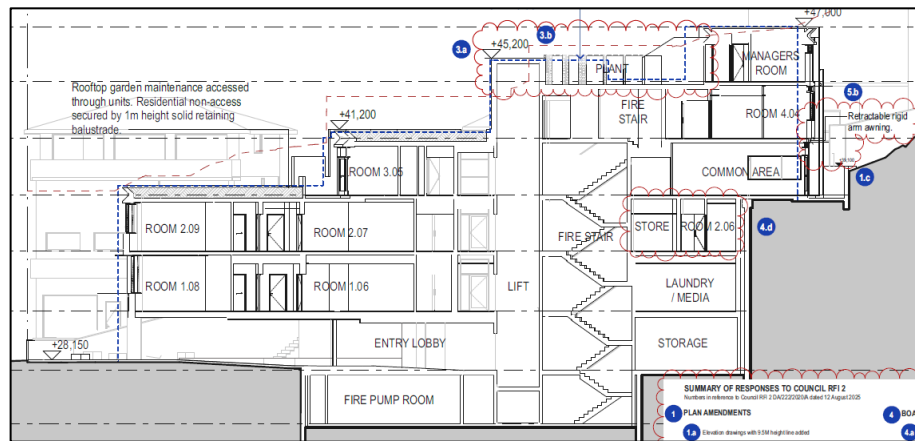


Figure 22: Proposed long section (Source: TonkinZulaikhaGreer)

7. Section 4.56 Assessment

Section 4.56(1)

Section 4.56(1) of the *Environmental Planning and Assessment Act 1979* states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

- (a) ***it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and***

Comment: The proposed development as modified would represent substantially the same development for which consent was originally granted, except for the parking provisions. The proposed building envelope is largely consistent with the approved development application and the number of occupants will remain consistent with the development consent of 32 persons and 1 manager.

However, the number of parking spaces has been reduced from 11x spaces (including 1x carshare) to 3x spaces (including 2x carshare), which represents a significant reduction in parking for the same number of occupants. As such, Council is not satisfied that the modification application demonstrates consistency with the substantially the same development test and is therefore recommended for refusal.

- (b) ***it has notified the application in accordance with—***
 (i) ***the regulations, if the regulations so require, and***
 (ii) ***a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

Comment: In accordance with the provisions of Council's Community Engagement Strategy, the original modification application was placed on notification for a period of fourteen (14) days between 28 November 2024 and 12 December 2024, where adjoining property owners were notified in writing of the proposal and invited to comment.

In addition, the amended modification application (being Rev B plans dated 30 May 2025) was placed on a secondary notification period of fourteen (14) days between 29 May 2025 and 13 June 2025.

- (c) ***it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed***

modification by sending written notice to the last address known to the consent authority of the objector or other person, and

Comment: Council has notified each person who made a submission in respect of the relevant development application of the modification application.

(d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: Throughout the notification period of 28 November 2024 and 12 December 2024, the following nine (9) submissions were received as a result of the notification process and have been paraphrased and summarised below:

- Unit 1, 4-6 Clyde Street
- Unit 7, 4-6 Clyde Street
- 2x submissions from 16 Clyde Street
- Unit 4, 5 Pitt Street
- 9 Pitt Street
- 11 Pitt Street
- Unit 6, 17 Pitt Street
- Courland Street resident

Issues	Comments
<u>Development Appropriateness</u> -development not appropriate in quiet cu-de-sac location -overdevelopment of site. -site too narrow for a boarding house development/poor understanding of unique site conditions. -only 1 manager on site to manage 59 people with 2 outdoor areas. -potential for private disputes between residents and their neighbours -will impact upon the quality of life and enjoyment of existing homes and families in the area.	Council is satisfied that the boarding house development is a permitted land use in the R3 Zone. In addition, the Court has previously found that a boarding house is appropriate on this site and subsequently issued development consent. The modification application seeks to modify the boarding house and is therefore an appropriate land use.
<u>Character</u> -will impact character of neighbourhood. -boarding house is not compatible with local area character.	The Court judgement for the development application found that the development is not inconsistent with the character of the locality. The proposed modification maintains a similar envelope. Mindful of the Court's decision, Council is satisfied that the proposed modification has a character not inconsistent with the locality.
<u>Height</u> -above height control. -unclear if 2.1m screen against the western side of the balconies is building height compliant. -should be kept to 3 storeys maximum/5 storey height in appropriate, height of 10.8m being over 9.5m complaint building height. -will impact the amenity of 5 Pitt Street townhouses in terms of visual bulk, privacy, overshadowing and loss of district views.	Agreed, the modified development seeks an additional height variation to that approved by the Court in the development application. See Key Issues for detailed consideration of the maximum building height development standard.

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<p><u>Western Elevation</u></p> <ul style="list-style-type: none"> -west elevation plan does not show maximum building line, building line as previous DA consent, a current building line, and existing ground line as per previous DAs. -will impact visual amenity of the proposed building, increase in height from plant equipment/screening, lift. -lacks articulation which is dominated by one uniform brick finish. -has a non-compliant western side setback, contrary to SEPP65, ADG and Randwick DCP. -introduce western pathway and entrance way for 4 levels above. Will impact upon privacy (both visual and acoustic) and amenity. -western glazing will impact upon light spillage onto adjoining neighbour. LEC conditions included to control light spill, will create excessive light split into my living room windows and private open space. -section 1 shows highest point considerably higher than approved DA from lift shaft – extra 1.95m in wall height, adverse visual amenity impacts. 	<p>Overall, Council is satisfied that the western elevation of the revised building will not have an undue impact on visual amenity, solar or privacy. However, the extent of view impacts affected from the further height increase is unclear. See Key Issues for detailed assessment.</p> <p>In terms of the side setback, in accordance with the Court judgement, the DCP side setback controls are not applicable (paragraph 140). That being said, Council is satisfied that the additional wall section to the western side maintains a similar setback to the approved building.</p> <p>In terms of light spillage, the modification application will improve light spillage by relocating the lobby and circulation area to the middle of the building floorplate. Room windows are angled away from facing directly into adjoining neighbours.</p> <p>In terms of the western fire egress, Council is satisfied that this is a secondary required fire egress (as per Fire Engineering advice provided from the applicant). Should the application have been supported, Council would have imposed conditions that the egress is only to be used in emergencies and that this is to be enforced by the building manager to mitigate any potential impacts.</p>
<p><u>Setback</u></p> <ul style="list-style-type: none"> -northern rear portion of dwelling changed from curve to rectangular, will be closer to the northern boundary, will increase shadowing (particularly in summer), further view loss and privacy issues. 	<p>Council is satisfied that the squaring of the northern portion of the building maintains the approved minimum rear setback and will not result in adverse solar, visual amenity or privacy impacts. See consideration of view impacts in the Key Issues section of this report.</p>
<p><u>Privacy</u></p> <ul style="list-style-type: none"> -boarding house will directly overlook our townhouse bedroom windows and garden/outdoor space. Includes communal areas, manager room balcony -removal of privacy screens to southern façade will exacerbate privacy concerns. -visual and acoustic privacy impacts from southern windows on all levels including living rooms and bedrooms. -northern changes to new rectangular building form will directly look into adjoining neighbours. 	<p>Council is satisfied that the modification application uses saw tooth wall sections to orientate windows away from directly overlooking adjoining neighbours.</p> <p>Council is satisfied that balconies to Rooms 3.01 and 3.05, as well as the manager room will improve the amenity of occupants without resulting in privacy impacts to No 4-6 Clyde Street.</p> <p>The POS is located within the same location as approved by the Court in the development consent, being to the northern side of the site.</p> <p>Should Council have supported the modification application, conditions would</p>

	have been imposed on southern windows to level 1 & 2 rooms to reduce direct overlooking of No. 10 Clyde Street.
<u>Noise</u> -will generate substantial noise due to proximity and number of residences -shared communal areas on the 3rd floor will cause noise impacts. -car noise from engines and tyres turning into turning bay will impact my acoustic privacy.	Council's Environmental Health Officer has confirmed the proposed development is satisfactory, subject to conditions to be imposed to implement the design and operational requirements to address acoustic amenity.
<u>Solar Access</u> -development will block eastern morning sun and create dampness/mould and mildew issues. -will overshadow my unit, reducing solar access to only 1 hour -northern side changes will increase summer solar impacts, request 21 December solar diagrams to depict impacts.	Council is satisfied that the minor envelope changes will not adversely impact upon the reasonable solar amenity of adjoining neighbours, as demonstrated (and verified) by the applicant's sun eye diagrams.
<u>View Loss</u> -has significant view impact on the most valuable view aspect from the most useable location including water views to the east. -increased height from plant room will lose skyline vista view from living area and district views from our upper floor.	See Key Issues regarding view impacts of the development.
<u>Parking</u> -one way entry and exit will pose difficulties for existing residents. -reduce on-street parking opportunities for existing residents, DA understates parking demand, inadequate for number of rooms/occupants. -additional residents will impact safety with increased vehicular traffic. -impact flow-on affects to St Marks Road, Oswald and Courland Streets. -traffic report does not factor in additional rooms and is inaccurate/misleading in relation to proximity to bus services -should have 1 parking space per room. -car stacker impractical, likely all cars will be on the street.	See Key Issues regarding parking arrangements of the development.
<u>Excavation</u> -proposed car-stacker will require 12.5m of excavation. -geotechnical report identified high risk of damage of adjoining properties. - geotechnical report has limited access and testing. -drilling to a depth of over 22m is unsafe and unnecessary. -machinery will cause extreme vibration risk. -anchors may be needed beyond site boundaries to stabilise excavation. I do not consent to this.	The amended modification application has deleted the proposed car stacker. The extent of additional excavation beyond what was approved under the DA is considered minor and is not considered to adversely impact upon the subject site or adjoining sites (subject to conditions). Drainage matters including to the OSD tank and absorption pit are considered acceptable, subject to conditions relating to drainage, as per the Court issued development consent.

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<ul style="list-style-type: none"> -gross infringement of surrounding properties to stabilise the site. -concerned that the underground detention tank 1m from the western side boundary and absorption pit – concerned that the pit could be compromised during excavation and undermine the Sydney Water network and infrastructure. 	
<p><u>Sydney Water Sewer and Stormwater</u></p> <ul style="list-style-type: none"> -the actual location of the stormwater pipe and easement does not match Council diagrams. -confirm that Sydney Water has approved the proposed works, in relation to their stormwater easement on the site. 	<p>Council is satisfied that the amended modification application will not impact upon sewer and stormwater infrastructure located within the site boundaries.</p>
<p><u>Canopy Trees</u></p> <ul style="list-style-type: none"> -loss of trees on site will impact air quality, increased noise, lack of shading, impact local wildlife. -no amended landscape plan on Council DA tracker. -approved planting had watergums which would lose views and be a nuisance with branches. -any roof planting needs to be ground cover to not further add to building height issues. 	<p>Council's Landscaping Officer has confirmed the proposed development is satisfactory, subject to conditions to be imposed in terms of the consent to remove the additional trees as outlined in the revised Arborist Report, implementation of the landscaping plan and future details regarding the podium planters (should the modification application have been recommended for approval).</p> <p>Should the modification application have been supported, conditions would have been recommended to manage planting with consideration of view corridors.</p>
<p><u>Landscaped Rooftops</u></p> <ul style="list-style-type: none"> -any foot traffic to level 3, 4 and 5 roofs will affect my privacy. What is to stop residents stepping over the balustrading to adjoining balconies and using the rooftop. 	<p>Council is satisfied that the green roofs are consistent with that approved by the Court. Should the modification application have been supported, conditions of consent would have managed the type of planting in these areas as well as management requirements confirming the gardens are non-trafficable except for general maintenance.</p>
<p><u>Waste Collection</u></p> <ul style="list-style-type: none"> - consider the impact of 23 additional bins that will be on the road, already significant challenges with garbage collection. 	<p>Should the modification application have been supported, Council would have recommended that the waste condition be revised to include updated waste room size requirements.</p>
<p><u>Fencing</u></p> <ul style="list-style-type: none"> -inadequate information on fencing details, concerns about privacy and sunlight impacts adjoining neighbour. 	<p>The modification application notes that the existing fence will be maintained. Any new fencing will be subject to the <i>Dividing Fences Act 1991</i>.</p>
<p><u>Construction</u></p> <ul style="list-style-type: none"> -waste from demolition and transportation can pollute the land and air quality. -large hydraulic excavator will affect surrounding neighbours. -will generate dust pollution and health risks. 	<p>The amended modification application will not cause construction management issues, subject to the imposition of standard conditions.</p>

<u>Flood</u> -development is in a flood area.	Noted. Council is satisfied that the amended development will not be adversely impacted by flooding impacts, as the development and land use are comparable to the approved development application.
<u>Low-Cost Housing</u> -no eligibility guidelines for occupants, rents at discretion of boarding house and manager. -rooms may be available for individual purchase down the track.	Agreed, this boarding house is market housing and subject to be rented out to the discretion of the owner. Rooms will not be permitted to be subdivided, in accordance with the ARH SEPP.
<u>Safety</u> -western pathway is hidden around the side and back of the building, respects safety and security concerns. -poor designed access points pose security concerns.	As noted above, Council is satisfied that this is a secondary required fire egress (as per Fire Engineering advice provided from the applicant). Should the application have been supported, Council would have imposed conditions that the egress is only to be used in emergencies and that this is to be enforced by the building manager to mitigate any potential impacts. Council is satisfied that amended modification application has been redesigned to consider the safety of residents, in accordance with CPTED principles.
<u>Property Values</u> -development will impact current resident property values, which will decline.	Property values are not a matter of consideration under the EP&A Act.

Throughout the secondary notification period of 29 May 2025 and 13 June 2025, the following eight (8) submissions were received as a result of the notification process and have been paraphrased and summarised below:

- Unit 1, 4-6 Clyde Street
- Unit 3, 4-6 Clyde Street
- Unit 7, 4-6 Clyde Street
- Unit 4, 5 Pitt Street
- 9 Pitt Street
- 11 Pitt Street
- Body Corporation for Strata Building 233 Alison Road
- 1x submission with no address provided

Issue	Comments
<u>Size of Development</u> -there are too many rooms. Inadequate parking and 4 storey building contravenes council's policy.	Agreed, the proposed parking is inadequate and there is a further height breach. See Key Issues for a detailed assessment.
<u>Height</u> -height of building exceeds maximum building height, is visually obtrusive. -lift well breaches height control – will impact upon my visual amenity from my home, pool and outdoor terrace.	Issues addressed above, see comments in previous table.

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<p><u>Western Elevation</u></p> <ul style="list-style-type: none"> -western wall section above the lift well is over the controls and what has been approved. -no assessment against height control of this section. -creates visual amenity impacts. -wall section dominated by largely one uniform surface and minimal articulation. -site envelope plan does not align with 3-5 metre compared with floor plans (A106, A105 A). -western entrance with 2 levels of glazing above will create adverse impacts of visual and acoustic privacy, amenity and create light spill. -LEC conditions-controlled light split on private open space and windows of adjoining properties. 2 level windows will light up and create excessive light spill into my living room windows and private open space. -western pathway and entrance will be general foot traffic accessing the building, not just emergency purposes, and will create privacy impacts. -Entrance will be visible from our living areas, pool and patio. This will erode our privacy. -western outdoor path and step access to entrance will create acoustic and visual privacy impacts to your pool and patio. Metals steps will be considerably noisier than any other material. Landscaped roof tops -any foot traffic to level 3,4 and 5 roofs will affect my privacy. What is to stop residents stepping over the balustrading to adjoining balconies and using the rooftop. 	<p>Issues addressed above, see comments in previous table.</p>
<p><u>Privacy</u></p> <ul style="list-style-type: none"> -frosted glazing is necessary to all windows to protect our privacy. 	<p>Issues addressed above, see comments in previous table.</p>
<p><u>Solar impacts</u></p> <ul style="list-style-type: none"> -reduce sunlight to my unit at 4-6 Clyde Street. Only 1 hour of sunlight (unit 1) 	<p>Issues addressed above, see comments in previous table.</p>
<p><u>Noise</u></p> <ul style="list-style-type: none"> -lift/plant to western side will add noise impact and is above the height non complaint area. -noise impact assessment fails to address or mitigate noise concerns. 	<p>Issues addressed above, see comments in previous table.</p>
<p><u>Room 1.05</u></p> <ul style="list-style-type: none"> -this room is set right again the eastern boundary. Should be setback further from the neighbouring property – is a large area for a single room. 	<p>Council is satisfied that whilst Room 1.05 is sunken into the site that the room will have adequate amenity in terms of natural ventilation with operable windows, and that the room will not result in adverse impacts on the adjoining neighbours in terms of privacy.</p>
<p><u>Parking</u></p>	

<p>-in accordance with NSW Housing SEPP, needs adequate motorbike and bicycle parking. Should be enforced by Council.</p> <p>-excellent local bus network, the additional cars are not environmentally friendly, represent a noise distribution – car stacker should then be refused.</p> <p>-car stacker should not be removed; parking is already challenging and the development does not provide sufficient parking for the residents of this building.</p> <p>-deletion of car stacker is welcomed but there is still an 8-parking space deficiency. Deficiency more concerning given the quiet cul-de-sac and minimal on-street parking.</p> <p>-additional bicycle parking welcomed, but preferable to have two privately owned car share spaces within the development.</p> <p>-Council should consider timed-parking with exemptions for Clyde Street residents who have a permit.</p>	<p>Council notes various submissions have different perspectives on the parking rate as to whether it is acceptable or not.</p> <p>See Key Issues for a detailed assessment of the parking matter.</p>
<p><u>Car Stacker/Excavation</u></p> <p>-22.5m+ excavation for the car stacker will cause significant undermining to adjoining building, trees and vegetation.</p> <p>-site comprises silty clay which is more susceptible to expansion and contraction.</p>	<p>The previously proposed car stacker has been deleted.</p>
<p><u>Landscaping</u></p> <p>-height of plants on roof will impact my views – partial water view and previously approved watergums would spill over onto my property.</p>	<p>Issues addressed above, see comments in previous table.</p>
<p><u>Waste</u></p> <p>-compost bin at the southern end of the proposal could create smell and pest problems, should be deleted or relocated where it is unlikely to impact neighbours.</p>	<p>Agreed, should the modification application have been supported, it is recommended the compost bin be deleted (as per Council's Environmental Health Officer).</p>
<p><u>Sydney Water Sewer Line</u></p> <p>-immediately adjacent site, would be undermined due to car stacker and 'zone of influence' pressures on mains from building.</p>	<p>Issues addressed above, see comments in previous table.</p>

Section 4.56(1A)

Under the provisions of section 4.56(1A) of the *Environmental Planning and Assessment Act 1979*, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Council is not satisfied that the proposed modification adequately addressed the relevant sections of 4.15(1) of the Act, as detailed below.

Furthermore, Council is not satisfied that the proposed modification adequately takes into the reasons given by the consent authority for the grant of the consent that is sought to be modified. The Court judgement found the following, of which has not been adequately demonstrated as part of the amended modification application:

- The parking arrangement on the site was considered acceptable by the Court in relying upon the adoption of the agreed upon parking provisions as outlined in the traffic engineer joint expert report. This provided for 11x spaces including 1x carshare. The proposed 3x spaces (including 2x carshare) does not provide adequate parking arrangement for future occupants and fails to consider that the development was supported by the Court in part for providing adequate parking (paragraph 100).
- The building height and view impacts were considered acceptable by the Court, subject to the deletion of Room 4.01 (paragraph 176). The proposed changes to the building envelope including additional building height within the existing view corridor has not been adequately considered by the applicant who has failed to provide a detailed view analysis. As such, the applicant has failed to consider whether the view impacts are acceptable based on the amended modification application and fails to consider that the development was supported by the Court in part for achieving sufficient view sharing considerations.

For this reason, the modification application is not supported for failing to demonstrate compliance with section 4.56(1A) and is therefore recommended for refusal.

8. Key Issues

Parking Rate and Configuration

The amended modification application seeks to provide 3x vehicle parking spaces, 2x of which are carshare spaces and 1x accessible parking space (equivalent to 11x spaces).

Council is not satisfied that the proposed development provides adequate parking for the boarding house development, in accordance with the relevant provisions of the Affordable Rental Housing SEPP 2009 (ARH SEPP), and the Land and Environment Court expert advice and subsequent endorsement by the Court.

Firstly, it is noted that the ARH SEPP is the relevant policy for this approved boarding house development, in accordance with the saving provisions outlined in section 2(d) of Schedule 7A of the Housing SEPP.

Section 29)(2)(e) of the ARH SEPP contains the following relevant provisions:

(e) parking

...

- (iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and*
- (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,*

The development consent granted by the Court included a boarding house with 27x rooms and 1x manager's room. As such, the parking arrangement includes 11x spaces including 1x carshare, being the equivalent to 15x spaces. This demonstrates compliance with the ARH SEPP provisions and was agreed via joint expert conferencing between traffic experts.

As part of the Court judgement, it is noted that 1x room ended up being deleted, resulting in 26x rooms + 1x manager room.

The amended modification application seeks consent to maintain the 26x boarding rooms. Under the ARH SEPP, this requires the parking provision of 14x spaces or 10x spaces (including 1x carshare).

As part of Council's formal additional information request issued on 12 August 2025, Council's Development Engineer considered the proposal and noted that given the inclusion of additional bicycle parking, Council could provide a credit for an additional carspace resulting in a reduced

requirement for 13 spaces or 9 spaces (including 1x carshare space). The Engineer outlined that the following parking spaces will need to comprise of:

- 1 Manager's space
- 1 Carshare space (equivalent to 5 normal spaces)
- 1 accessible space
- 6 private spaces for residents

The Engineer also required the applicant to consider the following design matters:

- Consider adding an additional basement level as there appears to be sub-basement level there already for plant rooms and facilities.
- The development cannot install too many mechanical devices as this was a contention with the original proposal. For example, Council will not support a car-lift accessing car stackers with a turntable.

The amended modification application provides 3x vehicle parking spaces (including 2x carshare), representing a shortfall of 3x spaces as well as seeking to offset the required parking by providing 2x carshare spaces.

The Applicant's response to Council's additional information request dated 12 August 2025 justifies the provided parking rate as follows:

"The first S4.56 Application that was submitted to Randwick Council with drawings dated 30/7/2024 had made a provision for 8 car spaces in the car stacker, 1 car share space and 1 accessible car space.

Since it was determined in the LEC Approval that 1 carshare space equates to 5 car spaces this results in a total of 14 car spaces.

Further to this and following DEAP meeting held on the 7th of April 2025, Randwick Council issued a document D05689126 DEAP Final Endorsed Comments - 8 Clyde St, Randwick.docx where the panel questioned the need for carparking on this site due to the proximity to public transportation. Please refer to item 3. Density in the document above.

The applicant since then has revised the scheme in discussions with the assessing officer at Randwick Council to following the recommendation of the DEAP.

The RFI dated 12th August 2025 is in complete contradiction to the above.

Further to this the State Environmental Planning Policy (Housing) 2021, Part 2 Development for Affordable Housing, Division 2 Boarding House requirement for parking is 0.2 spaces for each boarding room. This results in a requirement for 26 x 0.2 spaces = 5.2 spaces.

*The current car parking configuration has been reviewed, and the following is proposed:
2 x car share spaces = 10 car spaces
1 x Accessible car space
TOTAL = 11 spaces.
Refer A-101 Rev C."*

Council is not supportive of the proposed modification for the following reasons:

- Council acknowledges that a single car share space can be used to offset 5x vehicle parking spaces. Section 2.2 'Car share' in Part B7 'Transport, Traffic, Parking and Access' of the RDCP outlines the provisions for car share. Whilst it is noted that there are bus routes within the vicinity of the site on Alison Road, this does not reduce the need for some off-street parking spaces to be provided for 32x future occupants, of which some residents will have vehicles. This will put a further strain on the parking within the locality, which is already constraint. As such, the proposed development is inconsistent with the objective of section 2.2 of Part B7 of the RDCP in that the provision for 2x car share spaces is inappropriate for the development, which is not within an area with high public transport access to offset the need for some off-street parking.

- In the Court Judgement from Acting Commissioner Bindon dated 24 August 2021, the Court was satisfied that parking in accordance with contention 3 had been resolved based on accepting the agreed recommendations of the traffic engineers that the provision of 11 parking spaces is acceptable subject to a private car share space (in lieu of five standard parking spaces); a space for the manager and an accessible space (all in a non-stacker arrangement); a short stay service vehicle parking space can be accommodated in the first aisle; and the remaining eight resident spaces can be accommodated in the 8 vehicle car stacker accessed off the second aisle (paragraph 100).

The proposed modification seeks to significantly vary this finding by the Court which is not agreed by Council's Traffic Engineer. As such, in accordance with section 4.56(1A) of the EP&A Act, the proposed development fails to adequately take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified, and therefore Council asserts that the RLPP cannot grant consent to the amended modification application.

- Council acknowledges that the April 2025 DEAP did raise the need for parking to the development and outlined that there may be an argument for the reduction or elimination of car parking requirements. Council assessment staff do not agree with the DEAP in relation to this matter and suggests that the variation to the parking rate required under the ARH SEPP is a significant departure, of which will have an adverse impact on the future occupants of the building as well as on-street parking within the vicinity.
- Council notes that the applicable boarding house provisions are those in accordance with the ARH SEPP, not the Housing SEPP (as outlined above). Council does not support the argument from the applicant that the boarding house provisions in the Housing SEPP are applicable as it fails to acknowledge the difference between 'boarding house' development between the SEPPs.

The approved 'boarding house' development subject to this application is more consistent with the land use of a 'co-living' development rather than the current 'boarding house' definition (see in detail in the Section 4.15 assessment table below). That being said, a comparison between the different provisions of the land uses and SEPPs are provided below:

SEPP and Land Use	ARH SEPP (boarding house)	Housing SEPP (co-living)	Housing SEPP (boarding house)
FSR	+0.5 bonus Base = 0.75:1 Max = 1.25:1	+10% Base = 0.75:1 Max = 0.825:1	+30% Base = 0.75:1 Max = 0.975:1
Communal Living Area	Min 1 CLA area, no size requirements	30sqm +2sqm each room, 3m width	30sqm +2sqm each room, 3m width
Communal Open Space	At least 20sqm, 3m width (cannot be in front setback area) 8sqm for manager, 2.5m width.	20% of site area, 3m width	20% of site area, 3m width
Parking	0.5 each room, 1 manager	0.2 each room (accessible area)	0.2 each room (accessible area)
Room size	12sqm (single) and 16sqm (double), no bigger than 25sqm	12sqm (single) and 16sqm (double), no bigger than 25sqm	12sqm (single) and 16sqm (double), no bigger than 25sqm
Lot size	None	800m ²	800m ²
Management	Requires room for boarding house manager >20 rooms	Requires appropriate workspace for the manager	Requires to be managed by a registered community housing provider and to

			be used for affordable housing
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The above table demonstrates that whilst the boarding house provisions in the ARH SEPP have a greater parking rate (0.5 spaces), it allows for a greater FSR bonus and less onerous communal area requirements. Whilst the co-living and boarding house provisions in the Housing SEPP have a lesser parking rate (0.2 spaces), they permit a smaller FSR, which in turn would require less rooms in the development and a lessened parking impact on the locality. In addition, a boarding house under the Housing SEPP requires the development to be managed by a registered community housing provider and to be used for affordable housing, where the approved boarding house that relies upon the savings provisions in the SEPP does not require this.

As such, Council asserts that a comparison of the current boarding house rate in the Housing SEPP is not a relevant way to justify the proposed parking rate, which if applied would result in a different development with significantly less rooms.

- The applicant has failed to provide a revised Traffic Report that considers the provisions of the development containing 2x car share spaces and 1x accessible space. Council did receive a traffic report from Traffix (Ref 19.563r03v04, dated 16 May 2025) which considered the merits of 2x spaces (including 1x car share space and 1x accessible space) under the first plan revision.

Council notes that whilst additional bicycle parking has been provided for 1x space for each resident, overall, the development still provides inadequate parking. The locality has not experienced any significant changes to public transport options from that as detailed in the traffic engineers joint report in the Court hearing of the development application. As such, the evidence provided by both experts requiring a compliant parking rate is still applicable and required to be met.

Based on the assessment outlined above in relation the parking rate and configuration, Council does not support the amended modification application and recommends the application be refused for the reasons outlined above.

Building Height

The site is subject to a maximum building height development standard of 9.5m, in accordance with clause 4.3 of the RLEP.

The development consent issued by the Court Judgment approved a building with a height of between 10.8-11m. The extent of the height variations is captured in Figure 23 below (building height plane diagram) that formed part of the architectural package considered by the Court in their judgement.



Figure 23: Building height plane diagram of development consent DA/222/2020 (*Source: SHED*)

As part of the amended modification application package submitted by the applicant on 3 November 2025, revised building height plane diagrams were produced showing the extent of the 9.5m height breach. Figure 24 shows a comparison between the approved development with Room 4.01 deleted (as conditioned) and the proposed amended modification application.



Figure 24: Building height plane diagrams of development consent DA/222/2020 (as conditioned) and proposed in the amended modification application (Source: TonkinZulaikhaGreer)

The height plane diagrams above show that the building height is largely consistent with the approved development application, except for an increase from the relocation of the lift core and overrun, staircase to the level 5 manager's room, and the squaring of the manager's room.

The maximum building height seeking consent under this amended modification application is approximately 10.7m, which exceeds the maximum building height development standard of 9.5m.

In the absence for the requirement for a Clause 4.6 Assessment, in order to assess the non-compliance, Council needs to consider the proposal against the objectives of the relevant clause. The relevant objectives of Clause 4.3 of the RLEP 2012 have been reproduced below and an assessment against each objective:

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

Council comments:

The Court judgement for the development application found that the development was not inconsistent with either the existing character of the local area nor its desired future character (paragraph 142). The judgment also took into consideration the building height variation of up to 11m.

Being mindful of this judgement, Council is satisfied that in this instance, the amended modification application is therefore not incompatible with the desired future character of the locality, as previously found by the Court. The minor height extension to facility the development services and access does not result in any adverse bulk or massing issues. The revised scheme that provides a continuous wall section along the western elevation to the fire staircase has been amended to have glazed gradient brickwork, of which provides articulation to the wall section, reducing visual amenity impacts. Planters and landscaped area are also integrated into the elevation, which softens the size and scale of the development.

As such, the amended modification application is consistent with this objective.

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

Council comments:

There are no heritage items or heritage conservation areas within the immediate vicinity of the site which would be impacted by the height variation being sought under this application.

As such, the amended modification application is consistent with this objective.

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.

Council comments:

Council has considered the maximum building height variation in terms of the potential amenity impacts on adjoining and neighbouring land in terms of the following considerations:

- Visual Bulk:
Council is satisfied that the visual impact of the height variation is minor and does not adversely impact upon the visual amenity of adjoining neighbours (as detailed in objective (a) above).
- Loss of Privacy:
Council is satisfied that the additional height breach will not result in any privacy impacts, in that the areas are roof/service areas. The relocation of the lift core and fire stair provide for an overall improved amenity and functionality of the development on the site.

In terms of acoustic privacy and the potential impact of the roof A/C condensers, Council's Environmental Health Officer has confirmed the proposed development is satisfactory, subject to conditions to be imposed to implement the design and operational requirements to address acoustic amenity.

- Overshadowing:
Council is satisfied that the additional height breach will not result in additional adverse solar impacts on adjoining neighbours, noting that the northern windows of No. 11 Pitt Street will continue to receive adequate solar access, as well as the POS of adjoining neighbours including No's 9 & 11 Pitt Street and No's 4-6 Clyde Street.
- Views:
The applicant has failed to provide any additional view analysis to justify the additional height sought under this modification application that exceeds the maximum building height. In the Court Judgement for the development consent, the Court concluded that the view impacts were satisfactory, as outlined in paragraph 176, which has been reproduced below:

"176. Contention 9 relating to view loss focuses on the impacts of the development on the views from the Pitt Street properties adjoining to the west, particularly from their more elevated upper levels. The Court had the benefit of viewing the Site from the affected dwellings at 5, 9 and 11 Pitt Street. Both town planners were satisfied that the amended envelope and the removal of Room 4.1 would result in the view impact being consistent with that of the existing approved development and was acceptable. On the basis of that evidence and my own observations at the site view I find the view impacts, with the removal of Room 4.1, to be acceptable."

Council notes that multiple submissions have been received that outline that their existing views will be impacted from the amended modification application. Based on the location of the additional height variation being in a view corridor of No's 5 & 9 Pitt Street, as well as the lack of detailed view analysis provided from the applicant and that it was a matter in contention in the Court judgement of the

development application, Council is not confident of the impact and if it is acceptable.

As such, Council cannot be satisfied the view impacts are acceptable, as the applicant has failed to adequately address this potential impact in line with the objective. It is therefore recommended that the amended modification application be refused.

Private Open Space

The amended modification application seeks to provide a private open space (POS) with an area of 10m² in the form of a sunken balcony adjoining the main communal living area (CLA) to the northern side of level 3 of the development.

Council is not satisfied that the proposed development provides an adequate POS area for the boarding house development, ARH SEPP.

Section 29)(2)(d)(i) of the ARH SEPP contains the following relevant provisions:

(d) private open space

if at least the following private open space areas are provided (other than the front setback area)—

- (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,*

The development consent granted by the Court included a boarding house with a POS of >20sqm. This was facilitated in a similar arrangement proposed under the amended modification application at the level 3, however a greater area was to be excavated to provide an area that provided sufficient amenity. Whilst this is not clear on the Level 3 plan, the elevations and sections show an area with a depth of 4-4.7m and a retaining located closer towards the northern boundary. Figure 25 below shows this area as approved in the development application:

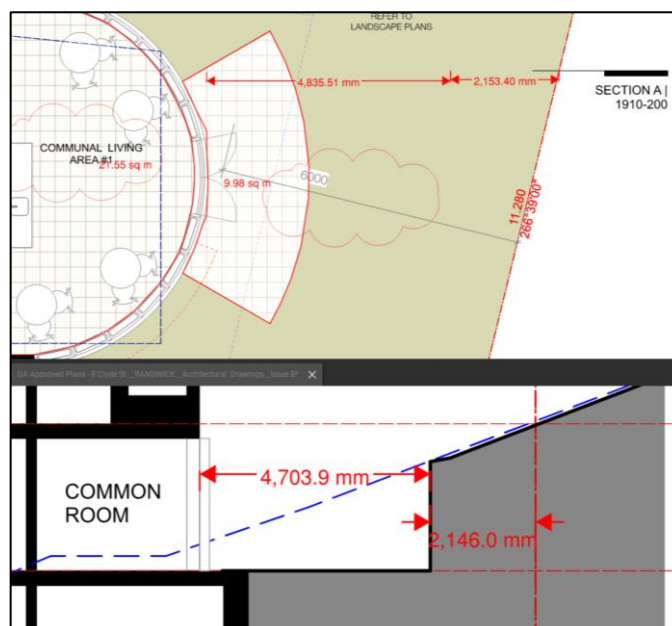


Figure 25: Approved POS under DA/222/2020 (Source: SHED)

The amended modification application seeks consent to provide a POS area of 10m² as a sunken balcony adjoining the main CLA, with a BBQ, seated area and a retractable awning above. The 10m² area is a variation of 10m² with this POS development standard in the ARH SEPP. See Figure 26 below.

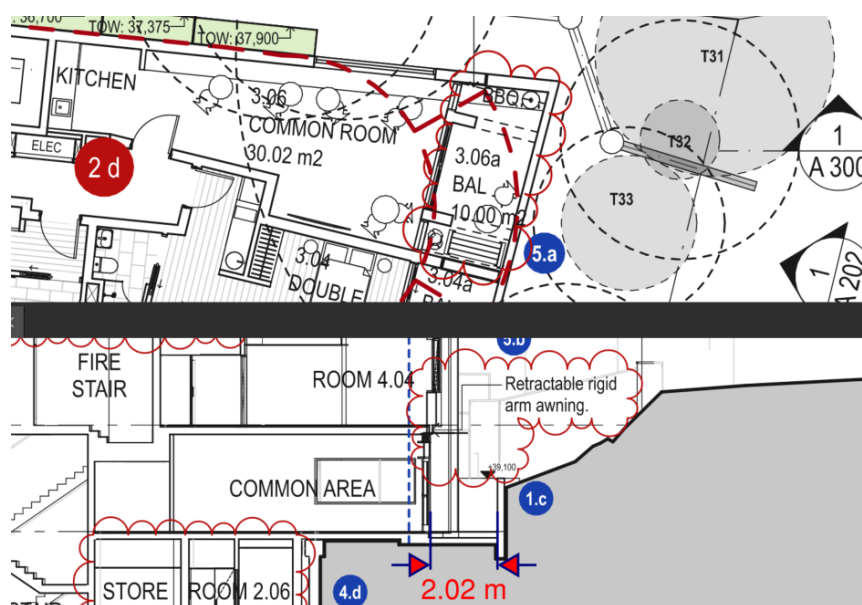


Figure 26: Proposed POS under the subject amended modification application (Source: SHED)

As part of Council's formal additional information request issued on 12 August 2025, this issue was raised with the applicant to address and increase the size of the POS area. On 4 September 2025, following a meeting with the applicant regarding Council's 12 August 2025 additional information request, Council's Assessing Officer sent the following correspondence to the applicant:

"Council acknowledges that the Approved DA table notes an external area of 10.1sqm. However, the approval does include an excavated planting area that improves the amenity of the area. Therefore, Council suggests that in order to improve the amenity of this space and achieve the requirements of the POS SEPP provisions, please provide an access from this 10sqm balcony area to the higher planting area able to be provided to improve the amenity, with some furniture (i.e. benches) provided to allow for a greater usable area."

The Applicant's response to Council's additional information request dated 12 August 2025 justifies the provided POS as follows:

"E-mail dated 4.09.25 by the Senior Environmental Planning Officer suggests providing access from the 10 sqm external common open space area on level 3 to the higher planting area with some furniture. On further investigating this opportunity providing this access is not recommended for the following reasons:

- The topography and slope of the ground is too steep to allow for safe access in higher planter area. Refer to Section A-300.*
- If stair access is provided this upper area will not be accessible to all users and therefore doesn't comply with the Accessibility Code.*
- Ramp access can be provided however it would require further excavation which would encroach on the TPZs and SRVs of the trees on the northern boundary.*
- Access to the upper landscape will require fall protection to be provided from that area resulting in a further sunken balcony and less access to direct sunlight.*
- Access closer to the northern boundary could also potentially inconvenience the northern neighbours."*

Council acknowledges the issues raised by the applicant in providing access to the raised landscaped area. That being said, whilst the POS was not in contention in the Court hearing for the development application, the amended modification application seeks a wholesale reconfiguration of the boarding house development. In this instance, it is appropriate that the amended modification application seek to provide adequate POS for the future occupants of the building, of which was achieved in the Court consent.

Council is not satisfied that the proposed POS area is sufficient in providing amenity for the future residents, which is a small sunken balcony area enclosed on all sides. Whilst a BBQ and seating area have been provided, the area is not sufficiently sized to support the minimum required amenity of the future occupants.

As such, Council is not supportive of the amended modification application, and it is recommended the application be refused.

9. Section 4.15 Assessment

See below table addressing the matters of consideration under Section 4.15 of the EP&A Act below.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	<p>Randwick LEP 2012</p> <p>Council is satisfied that the development remains consistent with “boarding house” land use as defined under RLEP 2012 prior to the commencement of the <i>Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2021</i> on 26 November 2021. Savings provisions in the Regulations allow for the development to remain defined under the previous definition of boarding house.</p> <p>Council is not satisfied that the proposed modification satisfies the objectives of the R3 Zone in that the development will not protect the amenity of residents for the reasons as outlined in the Key Issues (relating to parking, views and POS). For this reason, it is recommended that the amended modification application is refused.</p> <p>Consideration of the relevant clauses as follows:</p> <p><u>Clause 4.3 'Building Height'</u> Maximum = 9.5m Approved = 10.8m–11.0m. Proposed = approximately 10.7m</p> <p>The development seeks to increase the height to a portion of the approved development being the new lift shaft and overrun, and staircase access to the level 5 manager room. See Key Issues for a detailed consideration of this matter.</p> <p><u>Clause 4.4 'Floor Space Ratio'</u> Max = 1.25:1 (as per ARH SEPP) Proposed = 1.2:1 (GFA of 953m²)</p> <p>Council is satisfied that the applicant has calculated the proposed GFA and FSR accurately, in accordance with the relevant definitions, and that the proposed FSR complies with the maximum FSR permitted for this type of development.</p> <p><u>Clause 5.21 'Flood planning'</u> Council is satisfied that the amended development will not be adversely impacted by flooding impacts, as the development and land use are comparable to the approved development application.</p> <p><u>Clause 6.2 'Earthworks'</u> Council is satisfied that the minor additional earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clause 6.4 'Stormwater management'</u> Council is satisfied that the amended development will not be adversely impacted by drainage and stormwater management, which is largely consistent with the approved development application.</p> <p><u>Clause 6.10 'Essential services'</u> Council is satisfied that the amended development will maintain adequate essential services to the site, which is largely consistent with the approved development application.</p> <p>SEPP (Affordable Rental Housing) 2009</p> <p>The ARH SEPP is the relevant policy and provisions for consideration of the modification application to an approved boarding house development, in accordance with the saving provisions outlined in section 2(d) of Schedule 7A of the Housing SEPP.</p> <p>Council is not satisfied that the amended modification application satisfies the development standards pursuant to 29 and 30 of the ARH SEPP, including building height, parking and POS.</p> <p>See Key Issues and Appendix 2 for a detailed assessment of the relevant provisions of the SEPP. For these reasons, it is recommended that the amended modification application is refused.</p> <p>SEPP (Biodiversity and Conservation) 2021</p> <p><u>Chapter 2 'Vegetation in non-rural areas'</u></p> <p>The proposed development involves the removal of additional vegetation. Council's Landscape Officer reviewed the proposal and confirmed support for the proposed removal and landscaping treatments.</p> <p>SEPP (Building Sustainability Index: BASIX) 2004</p> <p>Section 2 under Part 1, Schedule 6 'Savings, transitional and other provisions' of the EP&A Regs 2021 states that any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.</p> <p>The development consent for a boarding house was a 'BASIX development', in accordance with the 2000 Regulations and BASIX SEPP and continues to be applicable for the development. The applicant has failed to provide a revised BASIX Certificate to account for the design changes under the amended modification application. Without a revised BASIX Certificate, consent cannot be granted to the modification application. As such, the development is recommended for refusal.</p> <p>SEPP (Housing) 2021</p> <p>Section 2(d) of Schedule 7A of the Housing SEPP states that the policy does not apply to a development consent granted on or before the commencement date. The development consent was granted before the commencement date (being 26 November 2021).</p>

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Section 4.15 'Matters for Consideration'	Comments
	<p>Accordingly the Housing SEPP does not apply, and the ARH SEPP, does apply to the subject modification application.</p> <p>See Key Issues for a consideration of the parking rates for development under the Housing SEPP relevant to co-living and boarding house development.</p> <p>SEPP (Sustainable Building) 2022</p> <p>The saving provisions under section 4.2 of the SEPP outlines that this policy does not apply to a modification application if the development application for the development consent was submitted on the NSW planning portal before 1 October 2023. The development application was lodged on the NSWPP on 22 May 2020. As such, the SEPP is not applicable to this modification application.</p>
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 Key Issues and Appendix 3 for details.
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	<p>The relevant clauses of the Regulations have been satisfied.</p> <p>N.B. the EP&A Regulations 2000 is the relevant regulations to the modification application in accordance with the savings provisions under Section 2 under Part 1, Schedule 6 'Savings, transitional and other provisions' of the EP&A Regs 2021.</p> <p><u>BASIX Certificate</u></p> <p>Pursuant to section 155(6) of the 2000 Regs, the applicant has failed to provide a revised BASIX Certificate for this approved BASIX related development. As such, consent cannot be granted to the amended modification application and is therefore recommended for refusal.</p> <p><u>Housing and Productivity Contribution</u></p> <p>Council notes that the H&PC is commenced for development applications lodged on 1 October 2023 and is therefore not applicable to this development.</p> <p><u>Registered Community Housing Provider</u></p> <p>Council notes that savings provisions for previous 'boarding house' land use do not require the development to nominate a provider to manage the development for affordable housing purposes.</p>
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report and are not acceptable.</p> <p>Whilst the proposed development is consistent with the dominant residential character in the locality, the proposal will result in adverse</p>

Section 4.15 'Matters for Consideration'	Comments
economic impacts in the locality	social and economic impacts on the locality in terms of parking, views and resident amenity.
Section 4.15(1)(c) – The suitability of the site for the development	<p>The site has been assessed as being suitable for the development in the original development consent.</p> <p>The modified development will remain substantially the same as the originally approved development, except for the significant parking variation being sought. The modified development is considered to not meet the relevant objectives and performance requirements in the RLEP 2012 and RDCP 2013. Further, the proposed modifications will adversely affect the amenity of the locality.</p> <p>Therefore, the site is not suitable for the modified development.</p>
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal is inconsistent with the objectives of the zone and will result in significant adverse impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.

10. Referral Comments

Development Engineering

Council's Development Engineer has confirmed the proposed development is not satisfactory and recommends refusal of the amended modification application based on the proposed parking rate and configuration. See a detailed discussion of parking in the Key Issues section of this report.

Council's Development Engineer has not raised further issues with the other relevant matters including drainage, flooding and waste have been adequately addressed by the applicant. Should the DA have been recommended for approval, relevant conditions would have been amended based on the amended modification application.

Development Landscaping

Council's Landscaping Officer has confirmed the proposed development is satisfactory, subject to conditions to be imposed in terms of the consent to remove the additional trees as outlined in the revised Arborist Report, implementation of the landscaping plan and future details regarding the podium planters (should the modification application have been recommended for approval).

Environmental Health

Council's Environmental Health Officer has confirmed the proposed development is satisfactory, subject to conditions to be imposed to implement the design and operational requirements to address acoustic amenity and the deletion of the compost bin (should the modification application have been recommended for approval).

11. Conclusion

The proposed modifications are not supported for the following reasons and recommended for refusal:

1. Pursuant to the provisions of section 4.56(1)(a) of the *Environmental Planning and Assessment Act 1979*, the application is not substantially the same development as the

development for which the consent was originally granted in relation the amended parking arrangement.

2. Pursuant to the provisions of section 4.56(1A) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development fails to demonstrate compliance with the matters of consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979*, as outlined in the reasons below.
3. Pursuant to the provisions of section 4.56(1A) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development fails to take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified, including the parking arrangement and the building height and potential adverse view impacts.
4. Pursuant to the provisions of section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development fails to comply with the objectives of the R3 Medium Density Residential zone in that the development does not adequately protect the amenity of residents.
5. Pursuant to clause 4.3 of RLEP 2012 and section 29(2)(a) of the ARH SEPP 2009, the applicant has failed to demonstrate the view impacts of the additional breach to maximum building height development standard.
6. Pursuant to section 29(2)(d)(i) of the ARH SEPP 2009, the application does not provide an adequate area for private open space for the boarding house development.
7. Pursuant to section 29(2)(e) of the ARH SEPP 2009, the application does not provide an adequate parking for the boarding house development.
8. Pursuant to the provisions of section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development fails to comply with the objectives and controls of the Randwick Development Control Plan 2013:
 - Clause 2.2 of B7 – Car share
 - Clause 5.5 of C2 – View sharing
 - Clause 2.2 of C4 – Outdoor communal open space
9. Pursuant to the provisions of section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* and section 155(6) of the *Environmental Planning and Assessment Regulation 2000*, the application is considered unacceptable in that the applicant has failed to provide a revised BASIX Certificate to account for the design amendments to the development consent.
10. Pursuant to the provisions of section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development will result in adverse social and economic impacts on the locality in terms of parking, views and resident amenity.
11. Pursuant to the provisions of section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development will is not suitable to the site as the proposed development is not substantially the same as the development consent and will adversely affect the amenity of the locality.
12. Pursuant to the provisions of section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the application is considered unacceptable in that the proposed development is considered to not be in the public interest as the proposal is inconsistent with the relevant zone objective, will result in significant adverse impacts on the locality, and does not adequately address objections raised in the public submissions in relation to view sharing.

Appendix 1: DEAP Comments

1.1 DEAP Comments - 7 April 2025 Meeting

Randwick Design Excellence Advisory Panel Final Endorsed Comments



DA INFORMATION	
Application Number	DA/222/2020/A
Address	8 Clyde Street, Randwick
Meeting Date	07 April 2025
Panel Members	Connie Argyrou, Tom Rivard, Rachel Yabsley
Report Date	16 April 2025

INTRODUCTION

This document provides a summary of advice and recommendations arising from the Design Excellence Advisory Panel (DEAP) meeting held in relation to the above application.

The DEAP comments are intended to assist Council in their design consideration of an application, including assessment against Chapter 4 of the Housing SEPP and the design principles for residential apartment development (as applicable).

The DEAP is appointed by Randwick City Council as an advisory group, not a decision-making body. The written and verbal comments are the professional opinions of the Panel members and constitute expert design quality advice. The Panel members are suitably qualified persons with expertise in architecture, planning, urban design, heritage, and/or landscape architecture.

To address the DEAP comments, the Applicant may be requested to submit amended plans. Prior to preparing any amended plans, the Applicant must discuss the DEAP comments (and any other matter(s) that may require amendment) with the relevant Council assessing officer. Any amended plans submitted to Council must be accompanied by a written response that details how each of the DEAP comments have been satisfactorily addressed.

PANEL COMMENTS

Section 4.56 Modifications to an approval for a 6-storey boarding house, comprising 18 single rooms and 8 double rooms, support and amenity spaces, with basement parking and services. The modifications are mostly in response to conditions offered in the previous development approval, seeking to improve privacy conditions (internally and externally) and residential amenity within the development.

Central to the changes are modifications to the ground floor, basement and addition of a sub-basement to incorporate additional parking via a subterranean car-stacker. Other changes mainly relate to internal residential amenity and privacy, both in regard to internal boarding house units and the internal and external living spaces of the 9 single-family and multi-unit residences surrounding the site.

1. Context and Neighbourhood Character

- The site is both unique and challenging: an internal battle-axe block reached by a 6-meter-wide sloping access drive connecting to Clyde Street, which is itself cul-de-sac, culminating in a turning circle, from which 8 or more properties are accessed.

- The subject site is fully surrounded by the 9 neighbouring properties, adjoining either their back or side yards, most of which contain external living spaces, external balconies or terraces and a couple swimming pools.
- In addition to the adjoining residential buildings and yards, the site is also surrounded by dense and verdant landscape, with many mature trees, some of which are on the subject site itself, and are to be retained.
- In this context, the nominated changes proposed by the applicant are mostly positive, massaging the building form and internal organisation, allowing units with discrete views and access to natural light, while enhancing privacy, both for the surrounding residences and the units themselves.

2. Built Form and Scale

- The formal refinements to the massing also help the building integrate more subtly into the dense hillside context, evolving from a fairly non-descript monolithic block to a much more variegated series of forms and planes.
- The adjustments to the upper-level plant room enclosure will improve the appearance of this element from neighbouring properties.
- The non-trafficable rooftop gardens are supported, for their potential contributions to the environmental performance of the building, as well as helping to integrate the building into its densely landscaped context, while providing a better viewscape for residents and surrounding properties than empty roofs. Refer below in Landscape for additional comments on these areas.
- Some small adjustments to the ground floor entry space and associated internal and external spaces should be possible with the suggested changes to parking, access and servicing discussed below.

3. Density

- The revisions to the approved design do not impact on site density considerations – as noted above, the formal refinements help the building better integrate into its context.
- The Panel is supportive of this model of housing in this context, as it meets an urgent need for an existing demographic (students, medical workers, key civil workers, etc).
- The Panel strongly contests the need for car parking to meet even the minimum requirements on the site. As indicated in the drawings and documents, satisfying even a part of the car parking requirement results in several questionable outcomes:
 - Extent of excavation required. The section indicates a sub-basement for the proposed car stacker extending 13 meters below the ground floor level, and nearly 20 meters below the existing ground level on site. Beyond posing an unacceptable risk for surrounding properties, this would also seem to represent a mismatched investment, given the nature of the residences proposed, and the expected residents.
 - The ground floor is highly compromised, due to the need to accommodate car parking, stacker access, servicing, fire egress and motorbike parking. The entry is constrained, the proposed ground floor residential unit is awkward, and the inability to access the main lift from entry level requires the addition of an accessibility platform in this area.
 - The sloping entry drive from Clyde Street conflates pedestrian access, motorcycle access and egress, cyclists, temporary bin storage and servicing, along with the expected regular movements in and out of the site of the 15 cars to be housed within the development.
- The Panel considers the location of the site, in relative proximity to Randwick shops, Allison Road, public transport, UNSW and the hospital, to represent an ideal case for an argument to be made for the reduction or elimination of car parking requirements on site.
- Reinforcing this, the expected residential demographic of the development does not suggest high ratios of car ownership. Rather, the expectations are that most travel by residents would be walking, cycling or via motorbike or scooter.

- The applicant has indicated a car share pod within the development – the Panel supports this provision, as it is likely to supply most of the demand for car use within the development.

4. Sustainability

- The significant reduction or elimination of dedicated private car parking is the most significant sustainability action that could be taken for this development – aside from substantially improving the built outcomes, it removes cars from the locality and road network, in favour of micro-mobility and public transport.
- The Panel supports the provision of landscaped areas on the non-trafficable roof areas – these are likely to provide substantial thermal and environmental benefits.
- The Panel accepts that possibilities for the provision of solar panels are limited, given the green roofs and the heavy shading provided by the surrounding tree canopy.
- Given site density, coverage and extents of managed roofscape, all rainwater on site should be either absorbed by the landscape, or otherwise harvested, stored, treated and reused for gardens, bike wash, laundries and toilets.
- To minimise waste removal from the site, a location for organic compost should be established within the ground floor landscape area.

5. Landscape

- The landscaped roofs are supported by the Panel, in principle, as a multi-faceted solution that delivers both environmental performance and visual amenity to the site and surrounds.
- The accompanying landscape plans (which we understand have been prepared and submitted) should include details on soil depth and extents, as well as a detailed planting plan indicating viable, low-maintenance species capable of thriving and propagating in these areas.
- Despite the above, these areas will require some maintenance, even if only to remove the inevitable leaf and branch litter from the surrounding tree canopy. While the areas are nominated as “non-trafficable,” and there is no access indicated from the units fronting onto the landscape areas, it raises the question as to how these areas are to be accessed for this irregular maintenance. If through the units, how is residential non-access secured? If accessed externally, where are staging areas for this work (ladders, scaffolding, lifts, etc)?
- Potential changes to the ground level entry, externally and internally, provide an opportunity to further refine this area as a genuine piece of activated public domain within the project. With the potential relocation of the ground floor unit, and incorporation of a bike hub/meeting space (discussed below, in Amenity), this area could become genuinely usable external communal space, while activating and surveilling the entry area, and the accessway to the Clyde Street cul-de-sac.
- Potential changes to the vertical circulation access allowed by changes to the parking scenario present the opportunity to connect to the central lift and stair directly from the ground level entry, along the northern edge of what is currently the basement. Also noted below, this connection could be enhanced by a direct relationship with the landscape space directly adjacent, transforming what might otherwise be a semi-subterranean corridor.

6. Amenity

- As noted above, amendments to ground/basement level should allow more flexibility in creating a more generous, amenable and activated public communal space at the entry.
- A more generous and clear internal entry could connect at this level into the site, and directly link to the central stair and lift, obviating the need for the accessibility lift at the entry.
- The internal connection from entry to lift, along the north side of the ground/basement level, could be partly open to the landscape space directly adjacent, creating a memorable entry sequence.
- The ground floor unit at the entry is awkwardly located, and compromised by the access and servicing requirements all around it. With the changes to accessibility and entry noted

above, perhaps this unit could be relocated to the level above, replicating the plan of level 2 directly above.

- An internal communal space is more appropriately located in the space of this unit – the applicant should investigate the possibility of locating some or all of the Indoor Play on level 1 to this area.
- The Indoor Play noted is a relatively low amenity space, landlocked, and not receiving much natural light or air. While some might be relocated to the front entry as above, changes to the basement might allow the nominated plant space to next to this space to be relocated, and the building line to be brought back off the boundary. This would at least allow some light and air to reach the space, while also opening the possibility of improving unit 1.06, directly adjacent – see below. If some space were relocated to the front entry, and Unit 1.06 relocated to this boundary position, perhaps the remaining space (now occupied by 1.06) could become a deliberately dedicated light-free space, like a media room or some other facility that lends itself to the enclosed condition.
- Unit 1.06 is a buried unit, with very low amenity. Its only light and air come from a small opening onto a lightwell, which itself is about 6 meters below natural ground level. Changes to the provision of communal space may allow this unit to be moved to a better position on the building perimeter, with improved spatial and environmental qualities.

7. Safety

- The deep excavation and corresponding subterranean car stacker represent a safety risk, with a five-level staircase connecting to the ground floor basement the only access from the car stacker. Eliminating the car stacker and significantly reducing cars on site will remove this risk.
- As noted, conflating car access and egress, waste removal and servicing, motorcycle and bicycle access, pedestrian movement and bin storage in the sloping access way from Clyde Street creates a safety risk, especially for pedestrians and cyclists. Reducing or eliminating the presence and regular movements of automobiles from this accessway will significantly reduce this safety risk.

8. Housing Diversity and Social Interaction

- The Panel is highly supportive of this type of housing in this area, as it meets a much-needed local demand.
- The Panel commends the applicants for continuing to evolve the project, improving both its internal amenity and its relationship to its surrounding neighbours.
- The success of boarding houses rely on the quality of the shared spaces and amenities, both internal and external, as necessary relief from the economical spaces of the units themselves. Improvements to internal and external communal spaces have been noted above; in addition, more flexibility within the basement area might allow for shared or individual storage areas, alleviating some of the spatial pressures in both the units and the shared spaces. This might include shared storage for things like tables and chairs to be used in the garden, or private storage for surfboards and other recreational equipment likely to be intrusive in a small unit.

9. Aesthetics

- As noted in the introduction, the applicants have made significant improvements to the proposal from its approved design. The serrated profile of the plan, while driven by internal amenity and privacy considerations, also generates a highly animated architectonic form, situating what could have been an intrusive building very subtly into a challenging context.
- The Panel is supportive of the overall design approach, and its projected outcomes.

SUMMARY

The Panel is highly supportive of this project, provided some of the operational and servicing changes around the parking can be realised. We feel that this will generate a much better outcome, for the project and its eventual constituents, as well as for the surrounding neighbours.

Given the scope and scale of amendments likely to result from this advice, the Panel would like to reserve the right to review this project again.

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1.2 DEAP Comments - 23 June 2025 Meeting

Randwick Design Excellence Advisory Panel Final Endorsed Comments



DA INFORMATION	
Application Number	DA/222/2020/A
Address	8 Clyde Street, Randwick NSW 2031
Meeting Date	23 rd June 2025
Panel Members	Lachlan Seegers, Mat Howard, Jason Fraser (chair)
Report Date	30 th June 2025

INTRODUCTION

This document provides a summary of advice and recommendations arising from the Design Excellence Advisory Panel (DEAP) meeting held in relation to the above application.

The DEAP comments are intended to assist Council in their design consideration of an application, including assessment against Chapter 4 of the Housing SEPP and the design principles for residential apartment development (as applicable).

The DEAP is appointed by Randwick City Council as an advisory group, not a decision-making body. The written and verbal comments are the professional opinions of the Panel members and constitute expert design quality advice. The Panel members are suitably qualified persons with expertise in architecture, planning, urban design, heritage, and/or landscape architecture.

To address the DEAP comments, the Applicant may be requested to submit amended plans. Prior to preparing any amended plans, the Applicant must discuss the DEAP comments (and any other matter(s) that may require amendment) with the relevant Council assessing officer. Any amended plans submitted to Council must be accompanied by a written response that details how each of the DEAP comments have been satisfactorily addressed.

PANEL COMMENTS

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 proposal is consistent with the current approval and represents an addition to existing housing in the area. It is however located on a site with poor access and poor separation. This has resulted in some compromised living outcomes as noted above.

2. Built Form and Scale

The proposal does not represent significant change to the current approval

3. Density

The proposed density results in below ground dwellings with very poor living environments. These should not be supported for the sake of density. Better living outcomes often result in better commercial outcomes where livability principles of natural light, natural ventilation, clear wayfinding, outlook, amongst others translate into a living product that is more commercially viable.

4. Sustainability

No comment

5. Landscape

- It is noted the proposal results in a large number of trees being removed in a location with poor separation between buildings. This will exacerbate privacy issues and be detrimental to outlook.
- Deep soil calculations appear to include zones where stormwater drains are located and where retaining walls will be required. This will result in a lower sqm outcome once measured exclusive of these.
- Landscaped rooftops do not provide direct access for maintenance

6. Amenity

The proposal represents poor amenity for a number of dwellings and poor amenity at shared spaces. It is questioned as to whether the common room on level 3 receives sunlight as required and suns eye diagrams should be provided to confirm. Please refer to notes below for more detail.

Dwellings and rooms shown on Level 1 at the northeast corner are approx. 7.5m below the top of fence adjacent. This will create a compromised outcome for natural light and ventilation with a high risk for damp and mould. Additionally, two dwellings at level 2 also share this deep pit zone for windows. This is likely to create a negative acoustic impact. And provide very little amenity for natural light and air.

- The media room at level 1 is not supported in its current configuration. Although the idea of a social space to utilize while washing is noted as a good idea, the quality of the space must support use and provide privacy to the adjacent dwelling.
- Dwelling 1.04 outlook is approx. 2m from the side wall and an average of 5m below the fence line creating very poor outlook and natural light for this dwelling.
- Unit 1.05 is located approx. 6m below the adjacent fence line with outlook
- Unit 1.08 does not seem to provide sufficient space for circulation around the bed and could be reconsidered to make this more furnishable.
- Dwelling 2.04 has minimal outlook where the window is currently located. The majority of the room receives no direct sunlight or outlook. In addition to this the outlook is significantly below ground and the adjacent fence line.
- Unit 2.04 does not seem to provide sufficient space for circulation around the bed and could be reconsidered to make this more furnishable.
- Unit 2.06 is shown with the corridor running into its plan, limiting natural light to all spaces and creating a poor outcome for this dwelling. Particularly where the window is significantly underground.
- The common room shown at level 3 is approx. 4m below the rear boundary and 2-3m below side boundaries. Please provide suns eye diagrams to confirm this is achieving solar access.
- Level 4 does not provide natural light to the lobby area. This should be provided.

- Unit 5.01 has access by the fire stair only. Also any access to the roof plant and landscape is through this unit. Use of this unit should be restricted so as not to provide a commercial use due to this compromise. Or access provided that does not impact this unit.
- Living spaces to this unit are likely to be impacted by the Mech condensers blowing out air which will transfer into living spaces
- Suns eye diagrams should be provided to support solar access particularly where compliance is required

7. Safety

The media room on level 1 is a common space with poor visibility and a dead-end access. This could result in a very unsafe space.

8. Housing Diversity and Social Interaction

The idea of consolidating social space with daily amenity space is a good one and is supported by the panel.

9. Aesthetics

The architecture and materiality shown in the renders represent well and are supported by the panel subject to the above comments.

SUMMARY

It is recommended that the proposal be amended to address the comments above prior to any approval.

Appendix 2: SEPP (Affordable Rental Housing) 2009 Boarding House Compliance Table

Standard	Proposal	Compliance
Part 2: New affordable rental housing		
26 Development to which division applies		
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones—		
(c) Zone R3 Medium Density Residential,	Yes, in site is located within Zone R3.	Yes, complies
27 Development to which Division applies		
(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.	Boarding house, as defined under approved development consent.	Yes, complies
(2) Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Greater Sydney region unless the land is within an accessible area.	Not applicable as land is Zoned R3.	N/A
(3) Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Greater Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Not applicable as land is Zoned R3.	N/A
29 Standards that cannot be used to refuse consent		
(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than—		
(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	FSR = 0.75:1, as per FSR map.	See below
(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or	N/A	N/A
(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus— (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	Residential flat buildings are permitted in the Zone R3. As such, the applicable maximum FSR is 1.25:1 (base 0.75:1 FSR +0.5:1 FSR bonus). Proposed = 1.2:1	Yes, complies
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—		
(a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	Max Building Height = 9.5m. Approved = 10.8m and 11m.	No, see Key Issues assessment

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Standard	Proposal	Compliance
Part 2: New affordable rental housing		
	Proposed = approximately 10.7m.	
(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The landscape area is consistent with that the Court issued development consent to.	Satisfactory
(c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The amount of solar access to the Level 3 CLA is consistent with that the Court issued development consent to.	Satisfactory
(d) private open space if at least the following private open space areas are provided (other than the front setback area)— (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,	Approved lodgers = 20m ² of POS including a trafficable area of 10m ² . Proposed lodgers = only 10m ² of POS that is sunken into the slope of the land without direct access to a wider 20m ² of area. Proposed manager = a balcony adjoining the managers room on level 5 that is >8sqm in size and >2.5m in width.	No, see Key Issues assessment
(e) parking if— (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and (ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and (iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,	Minimum = 14 spaces (for 26 boarding rooms and 1 manager). Approved = 11 spaces (including 1 carshare) Proposed = 3 spaces (including 2 carshare)	No, see Key Issues assessment
(f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least— (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	Council is satisfied that all single rooms are between 12sqm and 16sqm, and double rooms between 16sqma and 25sqm (excluding kitchen and bathrooms).	Yes, complies
(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	Kitchens and bathrooms provided to each room.	Yes, complies

Standard	Proposal	Compliance
Part 2: New affordable rental housing		
(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Noted.	-
30 Standards for boarding houses		
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following—		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	The development provides multiple CLRs throughout the development.	Yes, complies
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	Council is satisfied that all rooms are <25sqm in size (excluding kitchen and bathroom areas).	Yes, complies
(c) no boarding room will be occupied by more than 2 adult lodgers,	Capable of comply, subject to condition.	Yes, complies
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Adequate kitchens and bathrooms provided to each room.	Yes, complies
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	As development will cater to 32 occupants, a manager's room has been provided on level 5.	Yes, complies
(f) (Repealed)	-	-
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	Not applicable as land is Zoned R3.	N/A
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	Minimum = 5 of each bicycle and motorbike parking for 26 rooms. Proposed = 26x bicycles, 5x motorbikes	Yes, complies
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not applicable as the modification application is seeks changes to a development consent for a boarding house.	Not Applicable
30A Character of local area		
A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	Council is satisfied that the building is not incompatible with the character of the local area, with a massing that is largely consistent with the development consent, which is consistent with the Court judgement for the development application.	Yes, complies

Appendix 3: Randwick DCP 2013

3.1 Part B4: Landscaping and Biodiversity

Council is satisfied that the proposed development meets the landscape requirements in accordance with Part B4 of RDCP 2013.

3.2 Part B5: Preservation of Trees and Vegetation

Council is satisfied that the proposed development meets the tree preservation requirements in accordance with Part B5 of RDCP 2013.

3.3 Part B6: Recycling and Waste Management

Council is satisfied that the proposed development meets the waste requirements in accordance with Part B6 of RDCP 2013.

3.4 Part B7: Transport, Traffic, Parking and Access

Council is not satisfied that the proposed development meets the parking provisions in accordance with Part B7 of RDCP 2013, specifically in relation to car share. See Key Issues for a detailed assessment.

3.5 Part C2: Medium Density Residential

Note: Paragraphs 60-64 of the Court Judgement confirms that some provisions of Part C2 'Medium Density Residential' are relevant to boarding house development, to the extent where the controls do not relate to specific land use types (i.e. residential flat buildings, attached dwellings, etc.) As such, the relevant control of Part C2 of the DCP have been addressed below.

DCP Clause	Control	Proposal	Compliance
2.	Site Planning		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area is to be landscaped open space.	Consistent with that the Court issued development consent to.	Satisfactory
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	Consistent with that the Court issued development consent to.	Satisfactory
4.	Building Design		
4.1	Building façade		
	(i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by	Overall, the modification application is an improvement to the building facades which now comprise of modulated wall sections and a mix of materials, reducing the amount of side glazing.	Satisfactory

DCP Clause	Control	Proposal	Compliance
	dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs.		
4.2	Roof design		
	(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three-dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. (iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms. (v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape. (vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain. (vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if: <ul style="list-style-type: none"> -There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. -The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. -Any stairway and associated roof do not detract from the architectural character of the building and are positioned to minimise direct and oblique views from the street. -Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. 	The roof design includes screening to the western elevation to reduce visual impacts of the roof A/C condensers on adjoining neighbours, which is located within the maximum height standard. The development uses skylights and green roofs to improve the overall amenity of the building and its occupants.	Satisfactory

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DCP Clause	Control	Proposal	Compliance
	(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.		
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	The modification application largely maintains external wall heights in accordance with the development consent except for the western elevation where the lift overrun extends the wall up to 10.8m in height.	No, see Key Issues
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	2.7m F2C heights provided to each habitable floor area.	Yes, complies
4.5	Pedestrian Entry		
	<p>(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.</p> <p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. 	<p>Council is satisfied that that the building access to the constraint battle-axe site is satisfactory.</p> <p>Letterboxes provided at front of the battleaxe handle.</p>	Satisfactory
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. 	Council is satisfied that the internal reconfiguration of the boarding house development improves the amenity of the rooms to the development and reduces the impact on adjoining neighbours by reducing light spillage (a concern raised in the Court	Satisfactory

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 	proceedings). The corridors areas have sufficient amenity considering the site conditions being a battleaxe allotment with steep slope to the rear.	
4.9	Colours, materials and finishes		
	<ul style="list-style-type: none"> (i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of lightweight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. (v) Avoid the following materials or treatment: <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sunshade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts (vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used. 	The material finishes to the elevations are satisfactory, subject to a condition of consent (should the modification application have been recommended for approval).	Satisfactory, subject to potential conditions
4.12	Earthworks Excavation and backfilling		
	<ul style="list-style-type: none"> (i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification. (ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site. (iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling. 	The level of earthworks is largely consistent with the development consent. The additional lower ground floor level is located within the approved envelope and is reserved for plant and services only.	Satisfactory
	Retaining walls	The retaining walls outside the building	Satisfactory

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DCP Clause	Control	Proposal	Compliance
	(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries. (v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain. (vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).	envelope are largely consistent with the development consent.	
5.	Amenity		
5.1	Solar access and overshadowing		
	Solar access for surrounding development		
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June. (ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June. (iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.	Council is satisfied that the minor changes to the building envelope will not have an adverse impact on the solar access to adjoining neighbours.	Satisfactory
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls. (iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	Council is satisfied that overall, the modification application improves the amenity of the future occupants. Whilst rooms including Room 1.05 are sunken into the site, Council is satisfied that rooms have adequate amenity in terms of natural ventilation with operable windows.	Satisfactory
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room	Council is satisfied that the modification application uses saw tooth wall sections to orientate windows away from directly	Satisfactory

DCP Clause	Control	Proposal	Compliance
	<p>windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	<p>overlooking adjoining neighbours.</p> <p>Council is satisfied that balconies to Rooms 3.01 and 3.05, as well as the manager room will improve the amenity of occupants without resulting in privacy impacts to No 4-6 Clyde Street.</p> <p>The POS is located within the same location as approved by the Court in the development consent, being to the northern side of the site.</p> <p>Should Council have supported the modification application, conditions would have been imposed on southern windows to level 1 & 2 rooms to reduce direct overlooking of No. 10 Clyde Street.</p>	
5.5	View sharing		
	<p>(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings.</p> <p>(ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms.</p> <p>(iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain.</p>	<p>The applicant has failed to provide any additional view analysis to justify the additional height sought under this modification application that exceeds the maximum building height.</p>	No, see Key Issues

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DCP Clause	Control	Proposal	Compliance
	(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.		
7. Fencing and Ancillary Development			
7.3	Side and Rear Fencing		
	<p>(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).</p> <p>(ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>	The modification application notes that the existing fence will be maintained. Any new fencing will be subject to the <i>Dividing Fences Act 1991</i> .	N/A
7.6	Storage		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m³</p> <p>(b) 1-bedroom apartments – 6m³</p> <p>(c) 2-bedroom apartments – 8m³</p> <p>(d) 3 plus bedroom apartments – 10m³</p>	Adequate storage has been provided within the development and to each room.	Satisfactory

3.6 Part C4: Boarding Houses

DCP Clause	Control	Proposal	Compliance
2	Building design		
2.1	Boarding rooms		
	<p>i) Orientate to receive the maximum amount of sunlight;</p> <p>ii) Provide a balcony, terrace or window opening to outdoor areas for natural light and ventilation; and</p> <p>iii) Where provided, private open space in the form of a balcony or terrace must have a minimum useable area of 4 square metres.</p>	The modification application improves the solar access to boarding rooms by introducing saw tooth wall sections with windows orientated to the northern solar.	Amendments required.

DCP Clause	Control	Proposal	Compliance
		All provided private POS has an area >4sqm, except for balcony 3.04a which is only 3.87m ² . Should the DA have been supported, Council would have required the balcony be extended into the area of Room 3.04 to provide at least 4m ² via condition.	
2.2	Outdoor communal open space		
	<ul style="list-style-type: none"> i) Provide for all boarding houses, with a minimum total area of 20 square metres and a minimum dimension of 3 metres; ii) Provide at ground or podium level in the form of a courtyard or terrace area, accessible to all residents; iii) Locate and orientate to maximise solar access; iv) Incorporate both hard and soft landscaped areas; v) Provide shared facilities such as fixed outdoor seating benches, barbecues and the like to allow social interaction; and vi) Provide partial cover for weather protection, such as pergola, canopy or the like, where it does not cause unreasonable overshadowing on adjoining properties. 	<p>The modification application only provides 10m² of POS that is sunken into the slope of the land without direct access to a wider 20m² of area.</p> <p>The area is accessible to all residents, adjoins a CLA, containing a BBQ, seating area and retractable awning above.</p>	No, see Key Issues
2.3	Indoor communal living areas		
	<ul style="list-style-type: none"> i) Provide with a minimum dimension of 3 metres and a minimum total area of 20 square metres or 1.2 square metres/resident, whichever is greater; and ii) Orientate to maximise solar access and have a northerly aspect where possible. 	<p>Minimum = 38.4m² Proposed = 53.6m², including the laundry/waiting room.</p> <p>The modification application provides a CLA to level 3 that is consistent with that approved by the Court.</p>	Satisfactory
2.4	Communal kitchen, bathroom and laundry facilities		
	<ul style="list-style-type: none"> i) For all boarding houses, provide communal kitchen, bathroom and laundry facilities where they are easily accessible for all residents, unless these facilities are provided within each boarding room; ii) For development of over 12 boarding rooms without en suite bathrooms, provide separate bathroom facilities for male and female residents; iii) Locate and design any communal laundry room to minimise noise impact on boarding rooms and neighbouring properties; and iv) Where possible, locate clotheslines to 	<p>Adequate kitchens, bathrooms and laundry area provided for the development.</p> <p>En-suite bathroom facilities provided to each room.</p> <p>Laundry is located within the northern side of level 1, adjoining the fire stair and bathroom</p>	Satisfactory

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DCP Clause	Control	Proposal	Compliance
	maximise solar access while not compromising the street amenity or usability of communal open space.	of Room 1.05, of which is considered acceptable.	
2.5	Safety and crime prevention		
	<ul style="list-style-type: none"> i) Locate building entry points and internal entries to living areas where they are clearly visible from common spaces; ii) Locate a habitable living area (such as lounge room, kitchen, dining or bedroom) to allow general observation of the street and communal open space; iii) Separate ground level private open space from public and common areas by measures such as open fencing or low level plants; and iv) Select trees and low-lying shrubs that do not interfere with sight lines nor provide opportunities for concealment or entrapment. 	Council is satisfied that the development is design in accordance with CPTED principles including the building entrance being open to the undercroft area with a low seating area and security door to the building.	Satisfactory
2.6	Visual and acoustic amenity and privacy		
	<ul style="list-style-type: none"> i) Indicative locations of facilities and appliances for bathrooms, kitchens and laundries must be clearly shown on the DA plans/drawings; ii) Locate kitchen, dining room, lounge room and outdoor open space adjacent to or directly accessible from each other; iii) Locate similar uses (such as bedrooms or bathrooms) back to back, to minimise internal noise transmission; iv) Provide screen fencing, plantings and acoustic barriers where practicable to screen noise and reduce visual impacts; v) Where possible locate the main entry point at the front of the site, away from the side boundary and adjoining properties; vi) Locate communal open space, balconies and windows to bedrooms or communal areas, to minimise overlooking, privacy and acoustic impacts on adjoining properties; vii) An acoustic report prepared by a suitably qualified acoustic consultant must be submitted for new development or conversions/intensifications with an increase in resident numbers. The report must: a) establish the existing background noise levels; b) identify all potential noise sources from the operation of the premises, including any mechanical plant and equipment; c) estimate the level of potential noise emission; d) establish desirable acoustics performance criteria; and e) recommend any mitigation measures (such as sound proofing construction and/or management practices) required to achieve relevant noise criteria. 	<p>Council is satisfied that the rooms to the development will not adversely impact upon the amenity of future occupants.</p> <p>The amenity of adjoining neighbours is maintained in terms of privacy through the introduction of saw tooth wall sections that orientate windows away from overlooking adjoining neighbours as well as improved light spillage. Common areas are similar to that approved by the Court in the development application, of which was considered acceptable in terms of amenity impacts.</p> <p>Council's Environmental Health Officer has confirmed the proposed development is satisfactory, subject to conditions to be imposed to implement the design and operational requirements to address acoustic amenity.</p>	Satisfactory

DCP Clause	Control	Proposal	Compliance
3	Management plan		
	<p>Submit a Management Plan with all DAs for new and existing boarding houses, that addresses the general requirements outlined in the Management Plan section in Part B, and the following specific requirements:</p> <ul style="list-style-type: none"> a) Criteria and process for choosing residents. Preference should be given to people on low and moderate incomes; b) A schedule detailing minimum furnishings for boarding rooms, provision of facilities and appliances for kitchens, bathrooms and laundry rooms and maximum occupancy of each room; c) House rules, covering issues such as lodger behaviour, visitor and party policies, activities and noise control, use and operation hours of common areas (e.g. communal open space and living rooms) and policies for regulating smoking and consumption of alcohol and illicit drugs; d) Professional cleaning and vermin control arrangements for at minimum, the shared facilities, such as kitchens and bathrooms; e) Public notice and signs. 	Capable of compliance, subject to condition	Satisfactory

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Responsible officer: William Joannides, Environmental Planning Officer

File Reference: DA/222/2020/A

Development Application Report No. D70/25

Subject: 3 Berwick Street, Coogee (DA/798/2025)


Executive Summary

Proposal:	Alterations and additions to existing dwelling including reconfiguration of ground floor and new first floor addition (Heritage Item).
Ward:	East Ward
Applicant:	T Wheeler
Owner:	Belle Living Pty Ltd
Cost of works:	\$297,000.00
Reason for referral:	Heritage Item

Recommendation

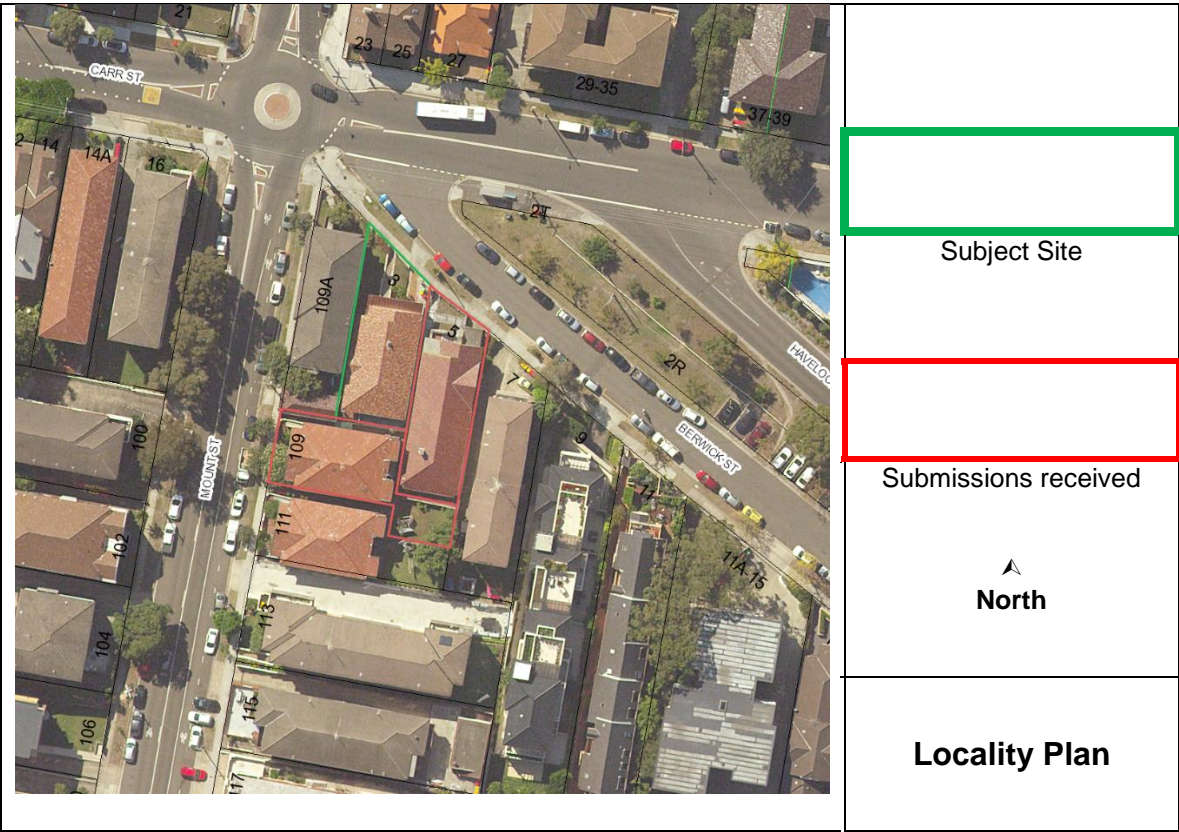
- A. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/798/2025 for alterations and additions to existing dwelling including reconfiguration of ground floor and new first floor addition, at No. 3 Berwick Street, Coogee, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (Low density res) - DA/798/2025 - 3 Berwick Street, COOGEE NSW 2034 - DEV - Randwick City Council

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development involves demolition of a heritage item and 11 unique submissions by way of objection were received during the course of assessment.

The proposal seeks development consent for alterations and additions to the existing dwelling, including reconfiguration of the ground floor and a new first-floor addition.

The key issues associated with the proposal relate to:

- Solar access and overshadowing impacts on adjoining properties
- Visual Bulk to the rear and Amenity concerns
- Non-compliance with rear and western side setback controls
- Heritage considerations

The proposal is recommended for approval, subject to non-standard conditions, including:

- Retention of significant heritage fabric (e.g., stained glass, timber doors), prohibition on painting original brickwork and sandstone, and submission of a detailed Materials and Finishes Schedule prior to the Construction Certificate.
- Deletion of the south-eastern ensuite to Bedroom 1 and internal reconfiguration to align with Bedroom 2, increasing the rear setback to reduce visual bulk and overshadowing impacts.

Subject to these conditions, the development is considered to achieve a reasonable balance between site constraints, heritage considerations, and the objectives of Randwick DCP Part C1 – Low Density Residential.

2. Site Description and Locality

The subject site is known as 3 Berwick Street, Coogee and is legally described as Lot B in DP 313214. The site has an area of approximately 368m², is irregular in shape, and has a frontage of 15.24m to Berwick Street. The eastern side boundary measures 25.35m, and the western boundary measures 34.265m.

The site contains a single-storey dwelling house, with the front portion previously used as a health consulting room for a dental practice. A garage is located beneath the eastern side of the dwelling.

The land slopes approximately 3m from the rear to the front boundary. The property is listed as a heritage item (1538) in Schedule 5 of the Randwick Local Environmental Plan 2012, formally added on 8 December 2023, following an Interim Heritage Order in 2022. Both 1 and 3 Berwick Street were listed as local heritage items at that time.

The surrounding area comprises a mix of development types, including single and two-storey detached dwellings, dual occupancies, and two- to four-storey residential flat buildings. There is limited consistency in form, style, and scale, resulting in a varied streetscape. The locality exhibits a high level of built form intensity, with numerous residential flat buildings contributing to a dense urban character.

- West (1 Berwick Street):
Two-storey attached dual occupancy with one dwelling per level. Listed as a heritage item with local significance on 8 December 2023.
- East (5 Berwick Street):
Single-storey, face brick inter-war bungalow constructed around 1926. Identified as a heritage item under the RLEP.
- South (109 Mount Street):
Irregular-shaped allotment adjoining the rear of 1 and 5 Berwick Street. Improved by a two-storey residential flat building comprising four dwellings. A portion of the site serves as common open space for residents.



Figure 1: Subject site and adjoining development along Berwick Street & Mount Street

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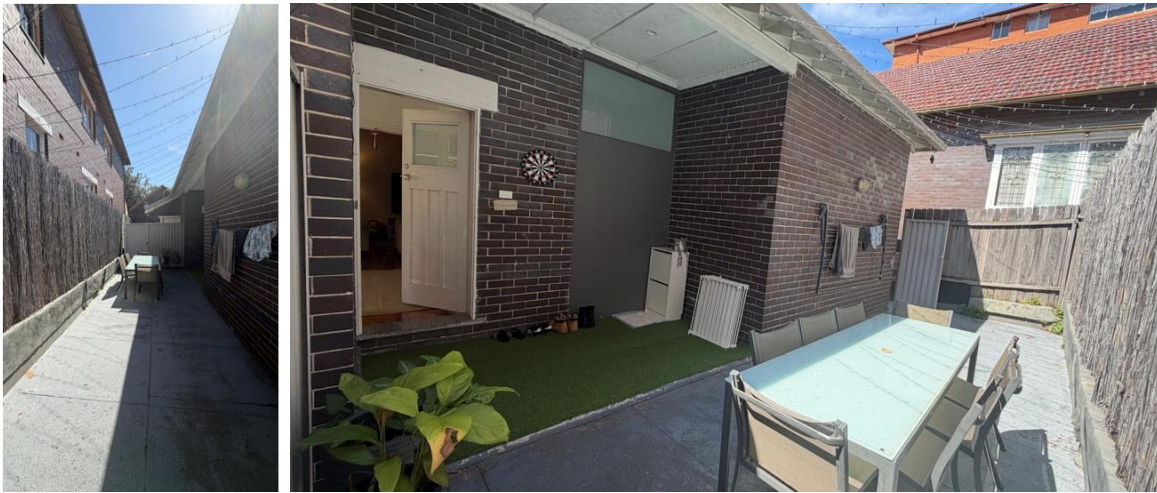


Figure 2: Rear yard of the subject site.

3. Relevant history

The subject site has been the focus of multiple development proposals and heritage actions. On 30 June 2020, DA/303/2020 was lodged seeking demolition of existing structures and construction of a three-storey residential flat building comprising six apartments with basement parking. On 28 October 2021, the application was amended to retain the dwelling at 5 Berwick Street and construct a four-storey residential flat building with three apartments at 3 Berwick Street; this application was subsequently withdrawn.

On 30 August 2022, DA/432/2022 was lodged for demolition of the existing dwelling, Torrens Title subdivision into two allotments, and construction of two semi-detached dwellings. On 27 September 2022, Council resolved to undertake a preliminary heritage assessment of the site. An Interim Heritage Order was gazetted on 14 October 2022 to protect 1 and 3 Berwick Street. A Class 1 appeal against the IHO was filed on 11 November 2022 and upheld on 7 June 2023, revoking the IHO. DA/432/2022 was refused by the Randwick Local Planning Panel on 11 May 2023.

A planning proposal to list 1 and 3 Berwick Street as local heritage items under the Randwick LEP was gazetted on 8 December 2023 without a savings provision. A subsequent Class 1 appeal against the refusal of DA/432/2022 was dismissed on 3 July 2024, following consideration of alternative design options. A pre-lodgement meeting was held on 30 January 2025 to discuss a revised development concept.

4. Proposal

The application seeks development consent for alterations and additions to the existing dwelling, including the construction of a first-floor addition. No changes are proposed to the existing basement garage or vehicular access arrangements.

The works include removal of certain elements of the existing dwelling, including the laundry and toilet located at the rear of the ground floor. The ground floor layout will be reconfigured to remove the secondary dwelling and dental practice and provide a single dwelling to improve the internal amenity, including improved room sizes, functionality, and access to natural light and ventilation.

The proposed ground floor layout comprises:

- **Front Entry and Living Areas:** A living room and dining room located towards the front of the dwelling, maintaining the original heritage configuration.
- **Central Kitchen Zone:** Positioned centrally with an adjoining pantry and laundry.
- **Rear Utility and Outdoor Area:** Includes a utility hall and external paved area leading to the rear yard.
- **Bedrooms:** Three bedrooms and a flexible media room located along the southern side of the dwelling.

- Access and Circulation: A main entry from Berwick Street with internal circulation connecting all rooms and external access to the rear yard.

A first-floor addition is proposed to the rear of the dwelling, positioned behind the existing chimney.

The proposed first-floor addition introduces:

- Two Bedrooms:
 - Bedroom 1: Approx. 24.6m² with a walk-in robe and ensuite.
 - Bedroom 2: Approx. 22.6m² with an ensuite.
- Study Area: Centrally located between the bedrooms, offering additional workspace and amenity.

The latest amended plans, submitted on 12 November 2025, incorporate the following key changes from the original submission dated 4 August 2025 and subsequent revision on 23 October 2025:

- Overall roof height: Reduced from RL 52.89 to RL 52.27. This represents a decrease of 0.62 metres.
- Southern roof plane: Lowered and shifted south to extend the eastern and western roof planes. This adjustment achieves the reduced roof height while maintaining adequate head height within the Level 2 bathroom.
- Northern V-shaped window: Reduced in height, with frame alignment modified to correspond with the vertical lines and colour of the existing gable below.

These amendments were provided in response to concerns raised by Council's heritage planner regarding roof form, visual bulk, and compatibility with the heritage streetscape.

The assessment in this report is based on the amended plans received by Council on 12 November 2025.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy. A total of 11 unique submissions were received as a result of the notification process:

- 1 Berwick Street, Coogee
- 5 Berwick Street, Coogee
- Local Resident (Coogee)
- 14/135 Coogee Bay Road, Coogee
- 6 Carr Street, Coogee
- 1004/56 Carr Street, Coogee
- Unit 1, 109 Mount Street, Coogee
- Unit 2, 109 Mount Street, Coogee
- Unit 3, 109 Mount Street, Coogee
- Unit 4/109 Mount Street, Coogee
- Coogee Precinct Committee

Issue	Planners Comment
Heritage Impacts <ul style="list-style-type: none">• Proposed roof alterations and first-floor addition breach Randwick DCP Section 2.7.• Attic rooms protrude above roofline and dominate street elevation.• Raised eaves and roofline inconsistent with traditional timber gable design.• Glass façade incompatible with heritage materials and character.	<p>The proposal was reviewed by Council's Heritage Planner. Initial concerns regarding bulk, roof form, and window size have been addressed through amendments, including:</p> <ul style="list-style-type: none">• Lowering the first-floor addition by 620mm to reduce visual prominence.• Reducing and reframing upper-level windows.

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Issue	Planners Comment
<ul style="list-style-type: none"> • Pergola design considered visually intrusive and inappropriate. • Significant rear massing disregards heritage value and impacts outlook. • Proposal disrupts visual cohesion of 1, 3, and 5 Berwick Street, affecting group heritage value. • Loss of historic views and architectural integrity from Carr Street and overhead. • Use of non-heritage materials (e.g. Flemish glass not reinstated). • Failure to restore demolished heritage features (e.g. dental surgery). • Developer allegedly disregarded stop work order and removed internal heritage elements. • Proposal not subservient to streetscape; highly visible and intrusive. • Impacts rare heritage typology of 1920s Californian bungalows. • Broader heritage impact and precedent for inappropriate alterations. • Loss of heritage setting and cultural landscape, including views and vistas. • Non-compliance with heritage controls; fails to mitigate impacts or respect listing. • The development is not in the spirit of an “in-roof” extension and would adversely impact the heritage aspects of 3 Berwick Street and the local community environment. • Concern about preservation of stained glass windows and “elaborate glazing details” forming part of original front door and dining room of No. 3 Berwick. Emphasizes importance of preserving stained-glass windows for heritage and amenity. • Questions discrepancies between diagrams (Drawing 133 vs Drawing 102) and how heritage items will be maintained. 	<ul style="list-style-type: none"> • Specifying sympathetic materials and finishes. <p>The development retains the original front roof form, which is considered sympathetic to the heritage character.</p> <p>Conditions require retention of significant fabric (e.g., timber doors, stained glass), use of light-coloured frames, and prohibition on painting existing brickwork and sandstone.</p> <p>Subject to these conditions, the amended design is considered visually recessive, compatible with the heritage character, and compliant with Clause 5.10 of the RLEP 2012 and Randwick DCP heritage provisions.</p> <p>Refer to detailed comments made by Council’s Heritage Planner in the referral section below.</p>
<p><u>Privacy, Amenity & Overlooking</u></p> <ul style="list-style-type: none"> • Rear balcony and elevated windows intrude on privacy of adjoining properties. • Balcony positioned in close proximity to neighbouring dwellings. • Combination of loft extension and balcony enables direct views into windows of 109 Mount Street. • Complete loss of privacy for adjoining apartments. • Proposal perceived as boxing in Unit 3/109 Mount Street, reducing amenity and outlook. • Overshadowing of north-facing windows to lounge, dining, and study rooms to Unit 1/109 Mount Street, notes that the unit could 	<p>The development is a dwelling house, so the Apartment Design Guide and SEPP privacy provisions do not apply. The proposal has been assessed against Randwick DCP Part C1 – Low Density Residential, which contains the relevant privacy controls.</p> <p>There are no balconies proposed at the rear, and the principal private open space (POS) is located at ground level, screened by the existing dividing fence. If anything, the neighbouring property at No. 9 Mount Street overlooks the subject site; however, this is an existing situation and not intensified by the proposal.</p> <p>All the proposed windows on the first floor level to the side and rear elevations are either</p>

Issue	Planners Comment
<p>become quite dark. Also, highlights the absence of shadow diagrams in the DA.</p> <ul style="list-style-type: none"> • Precinct Resolution 21/25 opposes the DA due to privacy impacts on residents of 109 Mount Street and 5 Berwick Street. • The development significantly impacts the amenity of sleeping and living areas on both ground and first levels of No. 1 Berwick Street. • Direct line of sight between bedroom windows of No. 1 Berwick and proposed windows on No. 3 Berwick (north-west corner), only ~2m apart. • Concern that internal paneling and stained glass currently provide privacy and acoustic separation; these must be retained. • Requests compliance with privacy screen requirements under SEPP and Low Rise Housing Diversity Design Guide. 	<p>highlight windows or fixed awning-hung windows with obscure glazing, which restrict direct views into adjoining properties.</p> <p>These measures ensure compliance with the DCP privacy objectives and adequately address overlooking concerns.</p>
<p><u>Solar Access & Overshadowing</u></p> <ul style="list-style-type: none"> • Breach of Randwick DCP Section 5.1. • Living areas currently receive limited sunlight; will be fully overshadowed by 2pm on 21 June. • Proposed second storey will severely block sunlight to north-east facing living spaces. • Complete loss of direct sunlight to adjoining and neighbouring properties. • Significant overshadowing impacts on residential amenity. • Precinct Resolution 21/25 opposes the DA due to solar access impacts on residents of 109 Mount Street and 5 Berwick Street. • Significant loss of sunlight to habitable rooms at No. 1 Berwick due to proposed second storey. • Notes absence of shadow diagrams and risk of darkened living spaces. 	<p>As discussed in Section 8.1 – Discussion of Key Issues, the proposal has been assessed against Randwick DCP Part C1, Sub-Section 5.1 – Solar Access and Overshadowing.</p> <p>Shadow diagrams confirm that dwellings at 1 Berwick Street and 5 Berwick Street currently receive less than 3 hours of solar access; however, the proposed development does not further impact this existing condition.</p> <p>For 9 Mount Street, compliance with the 3-hour solar access requirement is achieved, but the limited rear setback (3.02m–4.7m) increases visual bulk and restricts daylight to the subject site's private open space.</p> <p>To address this, it was recommended that the rear setback at first-floor level be increased by deleting the ensuite and reconfiguring Bedroom 1, improving daylight penetration and visual separation between properties to better align with the DCP rear setback objectives.</p> <p>Subject to this recommended modification, the proposal is considered to satisfactorily meet the objectives and controls of Section 5.1 of the DCP.</p>
<p><u>Visual Bulk, Streetscape & Massing</u></p> <ul style="list-style-type: none"> • Breaches DCP controls prohibiting raising eaves or re-pitching roofs for attic rooms. • Proposal fails to meet objectives of R3 Medium Density Residential Zone. • Non-compliance with Randwick LEP and DCP heritage provisions. • Development fails to maintain residential amenity and character. 	<p>The proposal was assessed against the Randwick LEP 2012, Randwick DCP 2023, and the objectives of the R3 Medium Density Residential Zone. While the original design raised concerns regarding visual bulk and roof form, the amended plans have addressed these issues by:</p>

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Issue	Planners Comment
	<ul style="list-style-type: none"> Lowering the first-floor addition by 620mm, reducing overall scale and prominence. Retaining the original front roof form, ensuring the addition is visually recessive and sympathetic to the streetscape. Specifying light-coloured finishes and materials consistent with heritage character. <p>The development maintains residential amenity and character by limiting impacts on adjoining properties and preserving the cohesive streetscape. Subject to recommended conditions, the proposal is considered compliant with Clause 5.10 of the RLEP 2012 and relevant DCP provisions.</p>
<p><u>Accuracy & Documentation</u></p> <ul style="list-style-type: none"> Discrepancy between labeled and actual bedroom count raises concerns about drawing integrity. Uncertainty regarding restoration of heritage details and accuracy of submitted plans. 	<p>The plans have been reviewed and are considered to accurately represent the proposed development. The discrepancy regarding bedroom count does not affect the overall assessment, as compliance is based on built form, scale, and heritage impacts rather than internal room labelling.</p> <p>Restoration of heritage details is addressed through recommended conditions, which require retention of significant fabric (e.g., stained glass, timber doors), prohibition on painting original brickwork and sandstone, and submission of a detailed Materials and Finishes Schedule prior to the Construction Certificate.</p> <p>These measures ensure heritage elements are appropriately conserved and documented.</p>
<p><u>Planning Compliance</u></p> <p>Highlights inadequate building separation and non-compliance with ADG minimum setbacks.</p> <p>Notes site frontage is less than 50% of ADG requirement for 12–14m frontage with 2m boundary setback.</p>	<p>The Apartment Design Guide (ADG) provisions apply to residential flat buildings and multi-unit housing, not to dwelling houses. As the proposal involves alterations and additions to a single dwelling, the ADG requirements relating to building separation, frontage, and setbacks are not applicable.</p> <p>The development has been assessed against the relevant provisions of the Randwick Local Environmental Plan 2012 and Randwick Development Control Plan 2023, which permit two-storey development on the site subject to compliance with height, floor space ratio, and heritage controls.</p> <p>The amended design reduces building bulk and maintains setbacks consistent with the DCP requirements for dwelling houses.</p> <p>To further address visual bulk and solar access impacts, a condition is recommended requiring</p>

Issue	Planners Comment
	deletion of the ensuite at the south-eastern end of Bedroom 1 and reconfiguration of the layout, which will reduce visual dominance and improve amenity for adjoining properties.
<u>Sewer line/tree planting concerns</u> Advises against proposed tree planting over sewer line due to risk of blockages and costly repairs.	<p>The sewer line is located well below the natural ground level at the front of the subject site. Based on its depth, the Council Development Engineer has confirmed that planting trees in this area will not impact the sewer line.</p> <p>In any case, the application does not propose any planting at the front of the dwelling, so the concern is not applicable to the current proposal.</p> <p>In addition to the above, Council does not require additional landscaping or tree planting in this instance, as the proposed ground floor addition represents less than 10% of the existing footprint. This is consistent with the objectives and controls under Sections 2.5 (Deep Soil Permeable Surfaces) and 2.6 (Landscaping and Tree Canopy Cover) of the Randwick Development Control Plan.</p>

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5.1. Renotification

The amended plans were not renotified because the changes reduced the height, built form envelope and overall amenity impacts, specifically to address heritage referral concerns with the original design. Under Council's practice, renotification is not required where amendments lessen the impact on adjoining properties and as such renotification of the amendments were not undertaken.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

The proposal involves alterations and additions to an existing dwelling house. The SEPP (Sustainable Buildings) 2022 applies primarily to new residential development and certain classes of major works. While the SEPP encourages sustainable design, the scale and nature of this development do not trigger specific provisions under the SEPP.

Compliance with sustainability requirements has been addressed through the Building Sustainability Index (BASIX). A valid BASIX Certificate has been provided, confirming that the development meets mandatory targets for water efficiency, energy efficiency, and thermal comfort. These measures ensure the proposal achieves improved environmental performance consistent with State planning objectives.

6.2. SEPP (Biodiversity and Conservation) 2021

The site is not identified as containing biodiversity-sensitive land, nor is it located within a mapped area of high ecological value under the SEPP. No threatened species, ecological communities, or significant vegetation are impacted by the proposal.

6.3. SEPP (Resilience and Hazards) 2021

The site is not identified as bushfire-prone or flood-prone land under Council's mapping. The proposal does not involve works that would increase risk from natural hazards.

The development is consistent with the objectives of the SEPP to ensure resilience to hazards.

Chapter 4 - Remediation of Land

The site is zoned for residential use and has a long history of residential occupation. There is no evidence or record of contamination, and the proposed works do not involve a change of use or intensification that would require remediation.

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the objectives of the zone as it:

- Provides for housing that maintains the existing residential character and amenity of the area.
- Respects the heritage significance of the site and surrounding streetscape through a design that is visually recessive and sympathetic to the original roof form.
- Achieves a scale and built form appropriate to the locality while allowing reasonable adaptation of the dwelling for contemporary living.
- Does not result in any unreasonable amenity impacts on adjoining properties.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.75:1	0.6:1 (or GFA of 223.2m ²)	Yes
CI 4.3: Building height (max)	9.5m	The amended plans result in an overall building height of approximately 8.602 metres, measured from the lowest point of the natural ground level to the top of the roof ridge. This reflects a reduction from the original roof height of RL 52.89 to RL 52.27, equating to a decrease of 0.62 metres.	Yes

6.4.1. Clause 5.10 - Heritage conservation

Clause 5.10 of the Randwick Local Environmental Plan 2012 seeks to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting, and views. The subject site at 3 Berwick Street, Coogee is a heritage item listed under Schedule 5 of the RLEP 2012 (Item No. 538 – Inter-war bungalow) and is located between two other heritage items at Nos. 1 and 5 Berwick Street, contributing to a cohesive heritage streetscape.

The application was referred to Council's Heritage Planner for specialist advice. The following key points were noted:

- Initial Concerns:
The original proposal was considered inconsistent with Section 2.3 of Chapter B2 of the Randwick DCP 2023, as the second-storey addition competed with the existing roof form and increased visual bulk. Recommendations included lowering the roof by 450–500mm and reducing the size of fixed windows on the upper level.

- **Amendments Made:**
In response to Council's request for further information, the applicant submitted amended plans and updated photomontages. The amendments include:
 - Lowering the first-floor addition by 620mm, reducing bulk and prominence.
 - Reducing the size of Window 2.04 and framing it in a lighter colour to minimise visibility.
 - Retaining the original front roof form, ensuring the addition is visually recessive and sympathetic to the heritage character.
- **Heritage Planner's comments on Amended design:**
The amended design is considered acceptable from a heritage perspective, subject to conditions ensuring retention of significant fabric and appropriate finishes.

Recommended Conditions:

- Retain the existing timber door (side entrance) and surrounding windows on the west elevation.
- Window 2.04 must be fixed with clear glazing.
- New window frames to be light in colour (e.g., Surfmist or similar off-white).
- Existing face brickwork and sandstone must not be painted.
- New external wall cladding to be off-white or cream in colour.
- Detail the proposed roof colour and material in the Materials and Finishes Schedule.
- Submit amended architectural plans incorporating these details prior to the issue of a Construction Certificate.

Subject to the recommended heritage conditions, the amended proposal is considered to satisfy Clause 5.10 of the Randwick Local Environmental Plan 2012 and the objectives of the Randwick Development Control Plan heritage provisions.

The design retains the original front roof form, reduces visual bulk through a lowered first-floor addition, and incorporates sympathetic materials and finishes. These measures ensure the heritage significance of the item and its setting within the streetscape is conserved.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.

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Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The amended design reduces visual bulk, retains the original roof form, and incorporates sympathetic materials, ensuring the development is consistent with the dominant character of the locality.</p> <p>The proposal will not result in any unreasonable amenity impacts on adjoining properties and will not cause detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

Randwick DCP Part C1 – Low Density Residential

Section 3.3.3 Rear Setbacks requires:

- A minimum rear setback of 25% of the allotment depth or 8m, whichever is lesser.
- Variations may be considered on merit having regard to:
 - Existing predominant rear setback line
 - Privacy and solar access
 - Reasonable view sharing
 - Site constraints such as irregular shape and topography

Minimum Required:

Given the irregular shape of the allotment, the minimum rear setback varies from:

- 8m to the south-western end of the building
- 6.34m to the south-eastern end of the building

Proposal:

- Existing ground floor rear setback: 1.75m to 3.02m
- Partial removal of the ground floor shed increases setback at the south-western end to approx. 4.7m
- Proposed first-floor rear setback: 3.02m to approx. 4.7m
- Proposed first floor is setback between 14.2m and 20.8m from the front boundary, which limits opportunities to shift the building forward.

Reason for Variation:

- The site is heritage-affected, and the existing chimney and front façade constraints prevent moving the building forward to achieve the numerical rear setback.
- The allotment's irregular shape and topography further restrict compliance.

Compliance:

- The proposed first-floor rear setback does not comply with the numerical control (8m and 6.34m).

Merit Assessment:

- The proposal improves the existing condition by increasing the setback at the south-western end.
- Privacy impacts are mitigated through highlight windows and obscure glazing, and solar access impacts are addressed through the recommended design change.
- Recommended Condition: To reduce visual bulk and overshadowing impacts and align the proposal more closely with the intent of the DCP rear setback provisions, a condition requires the deletion of the south-eastern ensuite to Bedroom 1 and internal reconfiguration to align with Bedroom 2, increasing the rear setback.
- The variation is considered acceptable given compliance with height, FSR, and side setback objectives, heritage constraints, and site limitations.

Although the proposal does not meet the numerical rear setback control, the variation is supported on merit under Section 3.3.3, subject to the recommended condition, as it improves the existing condition, addresses visual impacts and solar access, and responds to site and heritage constraints.

Section 3.3.2 Side Setbacks

The site has a frontage width of 15.24m.

For allotments with a frontage of 12m or greater, the minimum side setback is calculated as:

Required setback = $1.2\text{m} + (\text{building height} - 4.5\text{m}) \div 4$

Eastern wall height: Approx. 5.3m to 5.84m.

- Required eastern setback: 1.4m to 1.535m
- Proposed eastern setback: 1.63m – Complies.

Western wall height: Approx. 5.35m to 6.08m.

- Required western setback: 1.4125m to 1.595m.
- Proposed western setback: 1.385m - Does not comply.

The eastern side setback complies with the DCP control.

However, the western side setback does not comply, falling short by approx. 30mm (closer to the rear) to 210mm depending on wall height.

Merit Assessment:

The variation to the western side setback is considered acceptable on the following grounds:

- **Minor Nature of Variation:** The non-compliance ranges from approximately 30mm (towards the rear) to 210mm, which is minimal and does not materially affect the built form or adjoining properties.
- **No Unreasonable Impacts:** The variation does not result in adverse impacts on privacy, solar access, or amenity for neighbouring properties.
- **Compliance with Key Controls:** The proposal complies with height, floor space ratio (FSR), and other relevant DCP controls, ensuring the overall scale and bulk remain appropriate.
- **Site Constraints:** The site is constrained by heritage elements (including the existing chimney and front façade) and an irregular allotment shape, limiting design flexibility and preventing relocation of the building forward.
- **Objectives Achieved:** Despite the numerical non-compliance, the design meets the intent of Section 3.3.2 – Side Setbacks, maintaining adequate separation and minimising impacts on adjoining properties.

Sub-Section 5.1 - Solar Access and OvershadowingObjectives

- *To ensure new dwellings and alterations and additions are sited and designed to maximise solar access to the living areas and private open space.*
- *To ensure development retains reasonable levels of solar access to the neighbouring dwellings and their private open space.*
- *To provide adequate ambient daylight to dwellings and minimise the need for artificial lighting.*

Controls**Solar access to proposed development:**

- i) *A portion of the north-facing living area windows of proposed development must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June (in so far as it does not contradict any BASIX requirements).*
- ii) *The private open space of proposed development must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. The area covered by sunlight must be capable of supporting passive recreation activities.*

Solar access to neighbouring development:

- 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.*
- 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. The area covered by sunlight must be capable of supporting passive recreation activities.*
- v) *Existing solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. Where the neighbouring dwellings do not contain any solar panels, direct sunlight must be retained to the northern, eastern and/or western roof planes of neighbouring dwellings, which are at least 6m above ground level (existing), so that future solar panels capturing not less than 3 hours of sunlight between 8am and 4pm on 21 June may be installed.*
- vi) *Any variation from the above requirements will be subject to a merit assessment having regard to the following factors:*

- 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.

Subject Site

North-facing living room windows:

The shadow diagrams below demonstrate that the proposed dwelling maintains more than 3 hours of direct sunlight to north-facing windows during the required period, satisfying the control.

Private Open Space:

The shadow diagrams below demonstrate that the rear yard already does not achieve 3 hours of direct sunlight due to existing overshadowing from the subject and surrounding development, orientation, and limited rear setback. This shortfall is considered acceptable on merit because:

- The site is constrained by the subdivision pattern, existing built form and topography.
- The proposal complies with height, FSR, and heritage controls.
- The design minimises bulk to the rear by increasing the ground-level rear setback, improving daylight access to private open space.

Neighbouring Property – No. 1 Berwick Street, Coogee

- Shadow diagrams indicate that most north-facing windows are already overshadowed by existing development during midday and will not be further impacted by the proposed works.
- Morning solar access between 8:00am and 10:00am is retained and unaffected by the proposal, as the first-floor addition is well setback from the front boundary.

Accordingly, the proposal does not reduce existing solar access to these windows during the critical morning period and is considered to satisfy the relevant DCP control.

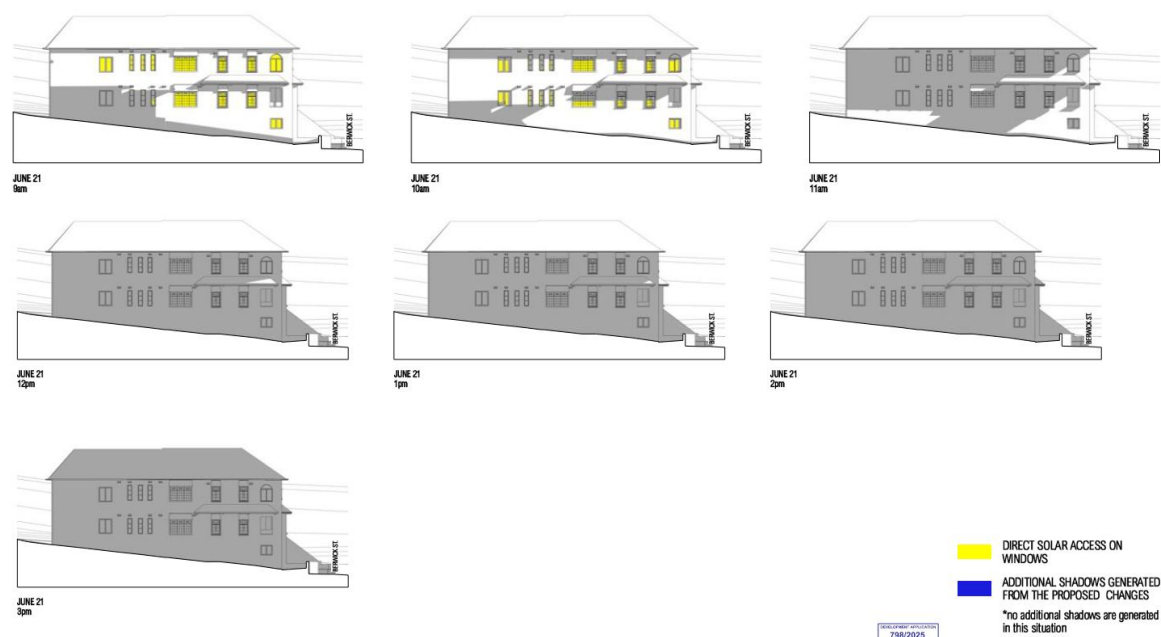


Figure 3: North elevational shadow diagrams for 1 Berwick Street, Coogee

Neighbouring Property – No. 5 Berwick Street, Coogee

- At 8am and 10am, north-facing windows do not receive sunlight; additional shadowing from the proposal is minimal.
- At 12pm and 1pm, sunlight is maintained to several windows, though some additional shadowing occurs on the western side.
- At 3pm, overshadowing increases, but morning and midday solar access ensures compliance with the 3-hour requirement.
- POS retains some sunlight during the morning period; impacts are considered reasonable given site orientation and compliance with built form controls.

The variation for POS solar access on the subject site is acceptable given:

- Compliance with height, FSR, and setback controls.
- Orientation and subdivision pattern of the block.
- Existing overshadowing from surrounding development.
- Limited rear setback and topography constraints.

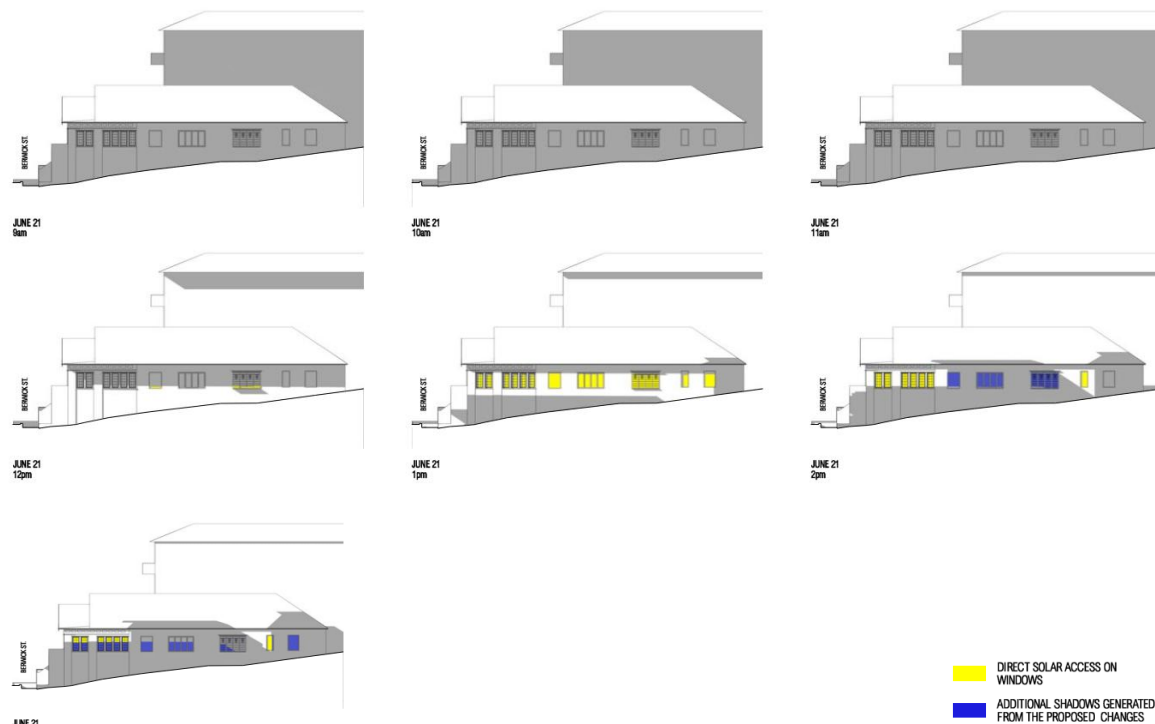


Figure 4: North elevational shadow diagrams for 5 Berwick Street, Coogee
Neighbouring Property – No. 9 Mount Street, Coogee

- The private open space (POS) for No. 9 Mount Street is located behind No. 5 Berwick Street and will not be impacted by the proposed development at No. 3 Berwick Street.
- North-facing windows of No. 9 Mount Street are oriented toward the proposed first-floor addition. The varied rear setback of 3.02m to 4.7m is non-compliant with the DCP requirement of 8m to the south-western end and 6.34m to the south-eastern end, noting the irregular shape of the allotment. This proximity increases perceived visual bulk and reduces solar access during winter mornings and afternoons.
- Shadow elevation diagrams confirm additional overshadowing to lower-level windows between 9:00am and 1:00pm on 21 June, with direct solar access retained only during early morning and late afternoon periods. Ground-floor north-facing windows will continue to receive the required 3 hours of solar access between 8:00am and 4:00pm, satisfying the DCP control. However, the proximity of the first-floor addition increases perceived visual bulk and limits building separation, which affects outlook and daylight penetration to adjoining windows and the subject site's POS.

Planners' recommendation:

While compliance with the minimum solar access requirement is achieved, the design does not fully meet the intent of the DCP objectives for building separation and daylight access. To improve amenity for adjoining properties and the subject site, and to reduce visual dominance, it is recommended that:

- The ensuite located at the south-eastern end of Bedroom 1 be deleted and the layout reconfigured to align with Bedroom 2. Bedroom 1 is to incorporate an ensuite and robe consistent with Bedroom 2.

This modification will:

- Reduce perceived dominance and visual bulk along the shared boundary.
- Improve daylight penetration to the subject site's private open space and north-facing windows of No. 9 Mount Street.
- Align the proposal more closely with the intent of the DCP rear setback and solar access provisions.

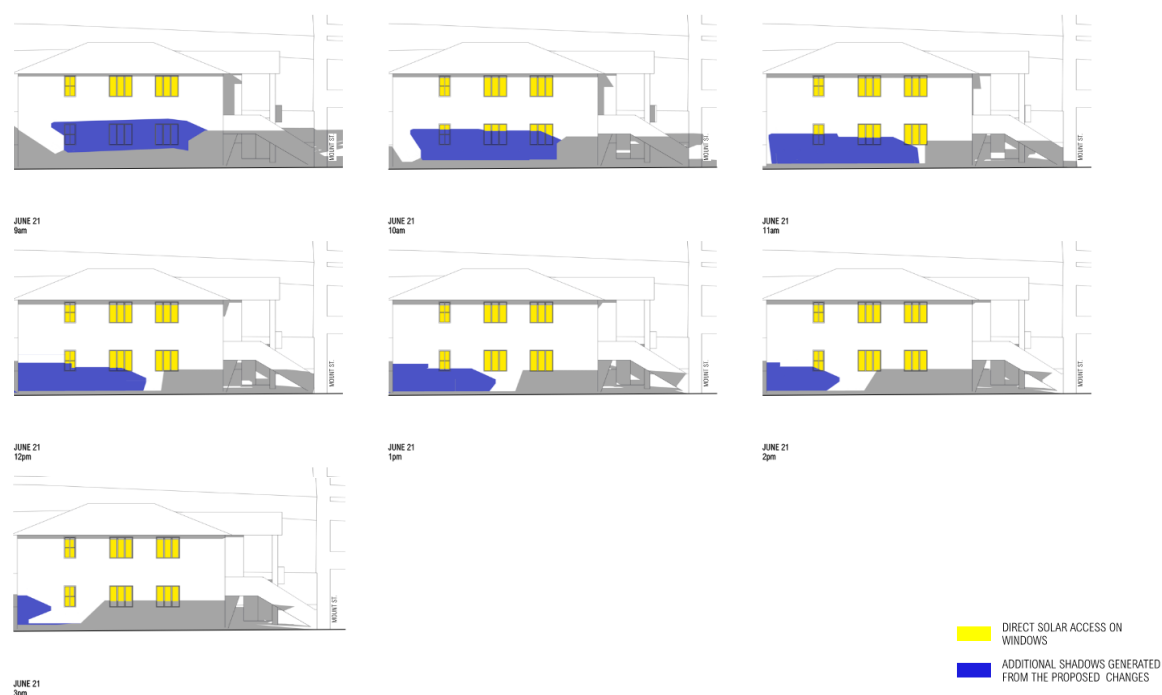


Figure 5: North elevational shadow diagrams for 9 Mount Street, Coogee

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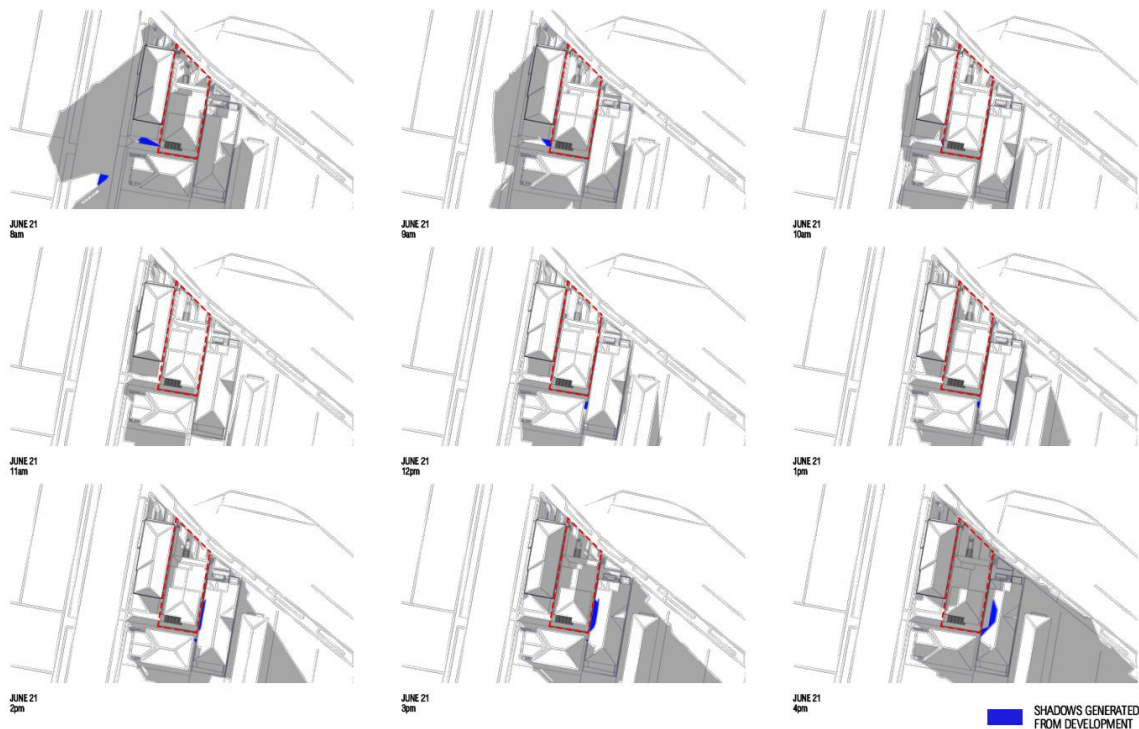


Figure 6: Existing and Proposed Shadow Diagrams on 21 June

9. Conclusion

That the application for alterations and additions to the existing dwelling at 3 Berwick Street, Coogee be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives of the Randwick Local Environmental Plan 2012 and the requirements of the Randwick Development Control Plan 2023.
- The proposal meets the specific objectives of the R3 Medium Density Residential Zone by providing housing that maintains the existing residential character, respects heritage significance, and does not result in unreasonable amenity impacts.
- The scale and design of the proposal, as amended, are suitable for the location and compatible with the desired future character of the locality.
- The development retains the original roof form and incorporates sympathetic materials, thereby conserving the heritage significance of the site and enhancing the visual quality of the streetscape.
- The proposal will not result in detrimental social or economic impacts on the locality.

Reference to non-standard conditions:

- Conditions requiring retention of significant heritage fabric (e.g., stained glass, timber doors), prohibition on painting original brickwork and sandstone, and submission of a detailed Materials and Finishes Schedule prior to the Construction Certificate.
- Condition requiring deletion of the south-eastern ensuite to Bedroom 1 and internal reconfiguration to align with Bedroom 2, increasing the rear setback to reduce visual bulk and overshadowing impacts.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage Planner

The application was referred to Council's Heritage Planner for specialist advice. The following comments were provided:

The Site

The subject site is a heritage item listed under Schedule 5 of the Randwick LEP 2012 and known as 'Inter-war bungalow' at 3 Berwick Street, Coogee (Item no. 538).

The site is located between two other heritage items:

- 'Inter-war residential duplex' at 1 Berwick Street, Coogee (Item no. 537)
- 'Inter-war Californian bungalow' at 5 Berwick Street, Coogee (Item no. 477)

The site is in the vicinity of 'Late Victorian house' at 21 Carr Street, Coogee (Item no. 75).

Proposal

Alterations and additions to existing dwelling including reconfiguration of ground floor and new first floor addition.

Submission

- D05808699 - SEE - 3 Berwick Street Coogee
- D05808707 - Statement of Heritage Impact - 3 Berwick Street Coogee
- D05808711 - *Full Set - Architectural set_3 Berwick Street, Coogee 28 May 2025_PAN-559928 (1)
- D05926124 - Amended Plans | 3 Berwick St, Coogee
- D05925513 - Correspondence: Tone Wheeler | 3 Berwick St, Coogee | Updated CGIs for Council

Controls

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

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

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

Comments for RFI (dated 17 October 2025)

Please see below a heritage referral for RFI in relation to 3 Berwick Street, Coogee:

- *The proposed second storey rear addition is inconsistent with the objectives and controls in Section 2.3, Chapter B2 of the RDCP 2023. The current structure competes with the existing roof form. The roof form should be lowered by 450-500mm to reduce bulk and scale and prominence of the second storey addition.*
- *The fixed windows on the second storey addition should be removed and replaced with skylights to the rear roof plane, or reduced in size to minimise visibility from the street.*

Also, we require the following additional information:

- *A material and finishes schedule.*
- *A window schedule – detailing which windows will be retained, repaired, or replaced.*
- *Updated architectural plans, including notations where maintenance or repairs are required to the building (i.e. brickwork, windowpanes and the removal of air conditioning units).*

Further additional information was requested on 29 October 2025:

- updated photomontage (Dwg no. 002) and two additional views shown by the red arrows below.



The following photomontages were prepared by enviona studio, received via email on 4 November 2025:





Comments

The following amendments improve the appearance and visibility of the first-floor addition:

- The first storey addition has been lowered by 620mm.
- Window 2.04 has been reduced in size.
- Window 2.04 is framed in a lighter colour.

Recommended heritage conditions

The following conditions must be included in any consent:

- Retain the existing timber door (side entrance) and surrounding windows on the West Elevation.
- Window 2.04 must be fixed. Glazing must be clear glass.
- New window frames should be light in colour, powder coated in Surfmist, or a similar off-white colour.
- Existing face brickwork and sandstone must not be painted.
- New external wall cladding must be off-white or cream in colour.

- Detail the proposed colour and material of the new roof on the Materials and Finishes Schedule.

Amended architectural plans detailing the above are to be submitted to Council and approved, prior to a construction certificate being issued for the development.

1.2. Development Engineer

An application has been received for alterations and additions to existing dwelling including reconfiguration of ground floor and new first floor addition (Heritage Item).

This report is based on the following plans and documentation:

- Architectural Plans by Environa Studio dated 23/10/2025
- Statement of Environmental Effects by Sutherland & Associates Planning dated 30/5/2025
- Detail & Level Survey by TSS dated 31/8/2023
- Geotechnical Report by Douglas Partners dated February 2024
- Stormwater Drainage Plans by SGC dated 13/6/2025

General Comments

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

Drainage Comments

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

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

Undergrounding of power lines to site

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

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

It is noted that the proposed works are located towards the rear and there are no alterations or additions proposed at the front of the dwelling where the existing electricity supply connects. It is therefore considered a nexus cannot be established between the council resolution and the proposed works and subsequently the condition has not been recommended in this instance.

Appendix 2: DCP Compliance Table**3.1 Part C1: Low Density Residential**

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 368m ²	
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)	The proposed development achieves a site coverage of 222.1m ² (60%), which complies with the applicable control. The amended design results in a minor reduction in site coverage through the removal of the rear laundry/WC structures.	Complies
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces *Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed between the pair of dwellings.	The proposal increases deep soil area to 67.11m ² (or 18.2%), improving compliance with landscaping objectives by removing hard surfaces at the rear of the dwelling. While it does not achieve full compliance, the proposal represents an improvement in deep soil planting.	Complies with the objectives.
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	There are no changes to the front setback and landscaping. The demolition of the laundry/WC structures provides a slight improvement in landscaping opportunities on the site. Additional planting is not required because the ground floor addition is less than 10% of the existing footprint, and the impact on site permeability and canopy cover is negligible.	Complies with the objectives.
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Private open space is increased to 43.28m ² at the rear by removing the laundry/WC structures. Additionally, the removal of the front sunroom creates a larger front setback area that can function as secondary private open space. The alterations also reduce the number of dwellings on the site, further	Complies with the objectives.

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DCP Clause	Controls	Proposal	Compliance																								
		improving amenity.																									
3	Building envelope																										
3.1	Floor space ratio LEP 2012 = 0.75:1	Proposed = 0.6:1 (or GFA of 223.2m ²)	Complies																								
3.2	Building height																										
	Building height LEP 2012 = 9.5m	Proposed = 8.602m	Complies																								
	i) Habitable space above 1st floor level must be integrated into roofline ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height at street frontage v) Alternative design which varies 2 storey street presentation may be accepted with regards to: <ul style="list-style-type: none"> Topography Site orientation Lot configuration Flooding Lot dimensions Impacts on visual amenity, solar access, privacy and views of adjoining properties. 	The proposal achieves the minimum floor-to-ceiling height of 2.7m for living areas.	Complies																								
3.3	Setbacks																										
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> 900mm for allotments with primary frontage width of less than 7m 1500mm for all other sites Should align with setbacks of adjoining dwellings iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.	No changes are proposed to the front setback at the ground floor level. The first-floor addition is setback between 14.2m and 20.8m from the front boundary, maintaining the front portion of the roof and preserving the heritage significance of the existing façade.	Complies																								
3.3.2	Side setbacks <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>	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	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	The site has a frontage width of 15.24m. For allotments with a frontage of 12m or greater, the minimum side setback is calculated as: Required setback = 1.2m + (building height - 4.5m) ÷ 4 Eastern wall height: approx. 5.3m to 5.84m. • Required eastern setback:	Eastern side setback – complies. Western side setback – does not comply. Refer to Discussion of Key Issues above.
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DCP Clause	Controls	Proposal	Compliance
		<p>1.4m to 1.535m</p> <ul style="list-style-type: none"> Proposed eastern setback: 1.63m – Complies. <p>Western wall height: approx. 5.35m to 6.08m.</p> <ul style="list-style-type: none"> Required western setback: 1.4125m to 1.595m. Proposed western setback: 1.385m - Does not comply. 	
3.3.3	<p>Rear setbacks</p> <p>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</p> <p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> Existing predominant rear setback line Reasonable view sharing (public and private) Protect the privacy and solar access <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> Compatibility POS dimensions comply minimise solar access, privacy and view sharing impacts <p><i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i></p> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings.</p>	<p>Minimum = Given the irregular shape of the allotment the minimum rear setback of the development varies from 8m to the southwestern end of the building and 6.34m to the southeastern end of the building.</p> <p>The existing setback of the building on the ground floor varies from 1.75m to 3.02m.</p> <p>The removal of part of the shed on the southwestern end of the building increase the setback on this end to approx. 4.7m.</p> <p>Proposed rear setback on the first-floor level is varied from 3.02m to approx. 4.7m.</p> <p>Does not comply.</p>	<p>No. Refer to Discussion of Key Issues above.</p>
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> articulated to enhance streetscape stepping building on sloping site, no side elevation greater than 	<p>The proposed development responds appropriately to the site's characteristics and surrounding built context by locating the additions to the rear of the existing dwelling and introducing a first-floor addition above the ground level.</p>	<p>Subject to conditions, complies.</p>

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DCP Clause	Controls	Proposal	Compliance
	<p>12m</p> <ul style="list-style-type: none"> encourage innovative design balconies appropriately sized Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	<p>The design incorporates articulation to maintain visual interest and ensures no side elevation exceeds 12 metres, limiting visual dominance.</p> <p>The addition is visually subservient to the existing dwelling, with materials and colours selected and subject to a recommended condition to complement the original building and respect its heritage character.</p> <p>Internal spaces exceed minimum size requirements, with Bedroom 1 (approx. 24.6m²) and Bedroom 2 (approx. 22.6m²) providing generous dimensions and high residential amenity.</p> <p>To further improve building separation and daylight access to the subject site and adjoining development, a condition is recommended requiring an increased rear setback at the first-floor level, consistent with the intent of Section 4.1 objectives.</p>	
4.6	Colours, Materials and Finishes		
	<ul style="list-style-type: none"> i) Schedule of materials and finishes. ii) Finishing is durable and non-reflective and uses lighter colours. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) Recycle and re-use sandstone 	<p>A schedule of external colours and finishes has been provided. The proposed materials are durable, non-reflective, and use a light colour palette consistent with heritage advice.</p> <p>External walls are specified in Dulux "White on White", with rendered finishes in Masonry Grey, and new window frames in Surfmist or similar off-white tones.</p> <p>The combination of cladding, render, and timber fencing provides articulation and visual interest while avoiding large expanses of rendered masonry.</p> <p>Conditions require retention of original timber doors and windows, prohibition on painting existing brickwork and sandstone, and specification of new frames in Surfmist or similar off-white tones. Refer to Figure 7 below.</p> <p>These measures ensure the</p>	<p>Subject to conditions, complies.</p>

DCP Clause	Controls	Proposal	Compliance																																							
		proposal respects the heritage significance of the dwelling and complies with Clause 5.10 of the Randwick LEP and Section B2 of the DCP.																																								
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4.7	Earthworks																																									
	<div><div><div>i) Excavation and backfilling limited to 1m, unless gradient too steep</div><div>ii) Minimum 900mm side and rear setback</div><div>iii) Subterranean spaces must not be habitable</div><div>iv) Step retaining walls.</div><div>v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm.</div><div>vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping)</div><div>vii) cut and fill for POS is terraced <i>where site has significant slope:</i></div><div>viii) adopt a split-level design</div><div>ix) Minimise height and extent of any exposed under-croft areas.</div></div><div></div></div>	<div><div>There is no significant excavation within 900mm from the boundary.</div><div>Earthworks are minimal and confined to the flat rear portion of the site, with excavation and fill well below the 1m threshold.</div></div>	Complies																																							
5	Amenity																																									
5.1	Solar access and overshadowing																																									
	Solar access to proposed development:																																									

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DCP Clause	Controls	Proposal	Compliance
	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.	Subject to conditions are acceptable.	Refer to Discussion of Key Issues above.
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	Subject to conditions are acceptable.	Refer to Discussion of Key Issues above.
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows 	The design provides appropriate daylight and ventilation to internal spaces and habitable rooms, meeting the performance criteria of Section 5.2 and contributing to energy efficiency.	Complies

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> 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>		
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	All proposed first-floor windows to the side and rear elevations are either highlight windows or fixed awning-hung windows with obscure glazing, which restricts overlooking once open whilst providing ventilation, ensuring compliance with DCP measures to minimise direct views into adjoining habitable rooms. No rear balconies are proposed, and the principal private open space is located at ground level, screened by the existing dividing fence. Any overlooking from No. 9 Mount Street toward the subject site is an existing condition and is not intensified by the proposal.	Complies
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> Locate noise-generating areas and quiet areas adjacent to each other. Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	The proposal meets the objectives of Section 5.4 by ensuring that the location and design of rooms and outdoor spaces do not create unreasonable acoustic impacts on adjoining dwellings beyond what presently exists on the site.	Complies
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window	No changes proposed to the front façade. The main entry door is access from the front of the dwelling.	Not applicable.

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DCP Clause	Controls	Proposal	Compliance
	(glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)		
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.	There are no view loss impacts associated with this application.	Not applicable.
7	Fencing and Ancillary Development		
7.6	Air conditioning equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	The existing air conditioning unit has been removed. There is no indication that a new unit will be installed as part of the proposal. To maintain reasonable levels of amenity for adjoining properties, a standard noise condition has been included in the recommendation.	Conditioned.
7.9	Utility Connections		
	If power pole is within 15m of site (on same side of street), applicant must meet full cost for Ausgrid to relocate.	Council's Engineers have reviewed the application and confirm that the condition for undergrounding power lines has not been recommended as part of this consent.	Refer to Development Engineering comments below.

Responsible officer: Chahrazad Rahe, Senior Assessment Planner

File Reference: DA/798/2025

Development Consent Conditions (Low Density Residential)



Folder /DA No:	DA/798/2025
Property:	3 Berwick Street, COOGEE NSW 2034
Proposal:	Alterations and additions to existing dwelling including reconfiguration of ground floor and new first floor addition (Heritage Item).
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 (including any deferred commencement conditions):

<i>Plan</i>	<i>Drawn by</i>	<i>Issue Dated</i>	<i>Received by Council</i>
Site Plan (Revision No. B) 030 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
Basement Plan Revision No. D) 101 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
Level 1 Plan Revision No. E) 102 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
Level 2 Plan Revision No. E) 103 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
Roof Plan Revision No. E) 110 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
Section AA Revision No. F) 120 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
Section BB Revision No. C) 121 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
North Elevation Revision No. E) 130 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
South Elevation Revision No. E) 131 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
East Elevation Revision No. E) 132 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
West Elevation Revision No. E) 133 (Issue 8)	Environa Studio	12/11/2025	12 November 2025

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Condition			
Elevations - Repairs Revision No. E) 130 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
Demolition Plan Revision No. C) 940 (Issue 8)	Environa Studio	12/11/2025	12 November 2025
BASIX Certificate No.	Dated	Received by Council	
A1797455_02	13 November 2025	14 November 2025	

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

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

2. **Amendment of Plans & Documentation**

The approved plans and documents must be amended in accordance with the following requirements:

a. The proposed first-floor plan must be amended as follows:

- Delete the south-eastern ensuite to Bedroom 1 including the associated roof and reconfigure the internal layout to align with Bedroom 2, thereby increasing the rear setback.

The abovementioned plan amendment must be submitted to and approved by Council's Manager Development Assessment prior to the release of any construction certificate.

Condition Reason: To reduce visual bulk, improve visual separation, and enhance daylight access to the subject site and adjoining properties, consistent with the objectives of Randwick DCP Part C1.

Heritage Requirements

b. Prior to the issue of a Construction Certificate, amended architectural plans must be submitted to and approved by Council, incorporating the following:

- Retain the existing timber door (side entrance) and surrounding windows on the west elevation.
- Window 2.04 must be fixed with clear glazing.
- New window frames must be light in colour, powder-coated in Surfist or a similar off-white colour.
- Existing face brickwork and sandstone must not be painted.
- New external wall cladding must be off-white or cream in colour.
- Detail the proposed colour and material of the new roof in the Materials and Finishes Schedule.

Amended architectural plans detailing the above are to be submitted to Council and approved, prior to a construction certificate being issued for the development.

Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development. To ensure the development maintains the heritage significance of the building and complies with Randwick DCP heritage controls. To reduce visual bulk, improve visual separation, and enhance daylight access to the subject site and adjoining properties, consistent with the objectives of Randwick DCP Part C1.

BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
3.	<p>Consent Requirements</p> <p>The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
4.	<p>External Colours, Materials & Finishes</p> <p>The colours, materials and finishes of the external surfaces are to be compatible with the existing building and adjacent development to maintain the integrity and amenity of the building and the streetscape.</p> <p>External materials, finishes and colours of the building are required to match, as closely as possible, the existing building and any metal roof sheeting is to be pre-painted (e.g. Colourbond) to limit the level of reflection and glare.</p> <p>Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
5.	<p>Section 7.12 Development Contributions</p> <p>In accordance with Council's Randwick City Development Contributions Plan 2024, effective from 31 July 2024, based on the development cost of \$297,000 the following applicable monetary levy must be paid to Council: \$2,970.00</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $IDC = ODC \times CP2/CP1$ <p>Where:</p> <p>IDC = the indexed development cost</p> <p>ODC = the original development cost determined by the Council</p> <p>CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment</p> <p>CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
6.	<p>Long Service Levy Payments</p> <p>Before the issue of a Construction Certificate, the relevant long service levy payment</p>

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	Condition
	<p>must be paid to the Long Service Corporation of Council under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with Section 6.8 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p><i>At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.</i></p> <p>Condition Reason: To ensure the long service levy is paid.</p>
7.	<p>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$600.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
8.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The 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.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. <p>Sydney Water's Tap in™ in online service is available at: https://www.sydneywater.com.au/tapin</p>

Condition	
	<p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
9.	<p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
10.	<p>Structural Adequacy</p> <p>Certificate of Adequacy supplied by a professional engineer shall be submitted to the Certifier (and the Council, if the Council is not the Certifier), certifying the structural adequacy of the existing structure to support the additional storey.</p> <p>Condition Reason: To ensure the structural integrity of the building is maintained.</p>
11.	<p>BASIX Requirements</p> <p>In accordance with section 4.17(11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 75 of the <i>Environmental Planning and Assessment Regulation 2021</i>, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.</p> <p>The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.</p> <p>The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
12.	<p>Stormwater Drainage</p> <p>Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the Certifier and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.</p> <p>Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
13.	<p>Excavation Earthworks and Support of Adjoining Land</p>

Condition
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.

BEFORE BUILDING WORK COMMENCES

Condition

14. **Building Certification & Associated Requirements**
The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:
- a) a *Construction Certificate* must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
- b) a Registered (Building) Certifier must be appointed as the *Principal Certifier* for the development to carry out the necessary building inspections and to issue an occupation certificate; and
 - c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the Principal Certifier and Council must be notified accordingly (in writing); and
 - d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and
 - e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.

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

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

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

Condition reason: Prescribed condition under section 69 & 71 of the Environmental Planning and Assessment Regulation 2021.

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

Condition

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

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

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

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

17.

Construction Site Management Plan

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

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

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.

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

DURING BUILDING WORK

Condition	
21.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and stating that unauthorised entry to the work site is prohibited. <p>The sign must be—</p> <ol style="list-style-type: none"> maintained while the building work is being carried out, and removed when the work has been completed. <p>This section does not apply in relation to—</p> <ol style="list-style-type: none"> building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition

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

22.

Restriction on Working Hours

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

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

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

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

23.

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:

- Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- 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.
- Public safety must be maintained at all times and public access to any

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	Condition
	<p>demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p>Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.</p> <p><i>If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.</i></p>
	<p>h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.</p> <p>i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA guidelines.</p> <p>j) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>k) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6000 for further details.</p> <p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
24.	<p>Building Encroachments</p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
25.	<p>Road / Asset Opening Permit</p> <p>A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.</p> <p>The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.</p> <p>For further information, and access to the Asset Opening Permit application form please visit Council's website at</p> <p>https://www.randwick.nsw.gov.au/services/roads/road-and-footpath-excavations</p>

Condition

or ring the call centre on 1300 722 542

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

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

26. **Occupation Certificate Requirements**

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

Condition reason: Statutory requirement. To ensure the site is authorised for occupation.

27. **BASIX Requirements**

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

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

Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.

28. **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.

29. **Council's Infrastructure, Vehicular Crossings and Street Verge**

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

- a) 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

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Condition	
	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.

30. **Council's Infrastructure, Vehicular Crossings and Street Verge**
That part of the nature-strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.

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

OCCUPATION AND ONGOING USE

Condition	
31.	Use of Premises The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes. Condition reason: To ensure the development is used for its intended purpose.
32.	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.
33.	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.

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition	
34.	Demolition Work Plan A demolition work plan must be developed and be implemented for any demolition works in accordance with AS2601 (2001)- Demolition of Structures. The demolition work must be carried out in accordance with relevant SafeWork NSW Requirements and Codes of Practice; Australian Standard – AS 2601 Demolition of Structures and Randwick City Council's Asbestos Policy.

Condition	
	The demolition work plan must include details of the demolition, removal, storage and disposal of any hazardous materials (including materials containing asbestos).
	A copy of the demolition work plan must be provided to the Principal Certifier and Council. A copy shall also be maintained on site and be made available to Council officers upon request.
	Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.

DURING DEMOLITION WORK

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