

# Randwick Local Planning Panel (Electronic) Meeting

Thursday 11 December 2025



**RANDWICK LOCAL PLANNING PANEL (ELECTRONIC) MEETING**

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting will be held online via Microsoft Team on Thursday, 11 December 2025 at 1pm

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

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Meryl Bishop  
**DIRECTOR CITY PLANNING**



## Development Application Report No. D75/25

**Subject:** 21 Forsyth Street, Kingsford (DA/1150/2025)

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### Executive Summary

<b>Proposal:</b>	Retention of unauthorised works to permit the use of an 11 room co-living development, including partial demolition and construction to create new rooms and three ensuite bathrooms
<b>Ward:</b>	West Ward
<b>Applicant:</b>	Ms A Hu
<b>Owner:</b>	Mr W M Kwan & Mr W Kwan
<b>Cost of works:</b>	\$27,500.00
<b>Reason for referral:</b>	The development contravenes the development standard for Lot size, communal living areas and communal open space by more than 10%

### Recommendation

That the RLPP refuses consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/1150/2025 for the retention of unauthorised works to permit the use of an 11 room co-living development, including partial demolition and construction to create new rooms and three ensuite bathrooms at No. 21 Forsyth Street, Kingsford, for the following reasons:

1. Pursuant to Clause 2.3 of RLEP 2012, the proposal is inconsistent with the objectives of the R3 Medium Density Zone in that it does not complement the desired future built form outcomes of the locality, does not have a high amenity and protect the amenity of residents, is inconsistent with the Council's strategic planning for residential development in the area, and does not facilitate a high standard of urban design.
2. Pursuant to Clause 4.6 of RLEP 2012, the Applicant has failed to submit a written request to vary the Car Parking Rate, Landscaping or room size development standards under the SEPP (Housing) 2021. The Applicant has failed demonstrate that the proposed non-compliances are unreasonable or unnecessary in the circumstances of the case and has failed to demonstrate that there are sufficient environmental planning grounds to justify variation to the development standards.
3. Pursuant to Section 68(2)(c) of the SEPP (Housing) 2021, the proposal does not provide sufficient communal living areas (nil provided). The submitted Clause 4.6 Assessment is not supported.
4. Pursuant to Section 68(2)(d) of the SEPP (Housing) 2021, the proposal does not provide sufficient communal open space. The submitted Clause 4.6 Assessment is not supported.
5. Pursuant to Section 69(1)(b)(ii) of the SEPP (Housing) 2021, the suitability of the site for the proposed development as not been adequately demonstrated as the site does not comply with the relevant lot size development standard. The submitted Clause 4.6 Assessment is not supported.
6. Pursuant to Section 68 (2) (e) and (f) of the SEPP (Housing) 2021, the proposal has not provided sufficient car parking or landscaping.
7. Pursuant to Section 69 (1)(a)(i) of the SEPP (Housing) 2021, the proposal has not provided sufficient room sizes.

8. Pursuant to Section 69(1)(d), (f), and (h) of the SEPP (Housing) 2021, the proposal has not provided an appropriate workspace for the manager, sufficient kitchen size or adequate bicycle and motorcycle parking.
9. Pursuant to Section 69(2) of the SEPP (Housing) 2021, the proposal:
  - a. Does not provide sufficient setback to Middle Street.
  - b. Does not provide sufficient solar access to a communal living area.
  - c. Is not of a compatible design for the desired future character of the precinct.
10. The BCA/NCC non-compliances, including unsafe stairways, lack of compliant handrails, unmarked glazing, and inadequate natural light to several rooms are not supported.
11. A full and robust assessment of the proposal cannot be completed as insufficient information has been submitted relating to Acoustic impacts and the provision of clear as-built plans.
12. Pursuant to the provisions of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the likely impacts from the Application as detailed in this report are considered unacceptable.
13. Pursuant to Section 4.15(1)(c) of Environmental Planning and Assessment Act 1979, the Subject Site is not considered suitable for the proposed development and has not demonstrated that it is capable of facilitating the extent of development sought.

**Attachment/s:**

Nil



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**1. Executive summary**

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

- The development contravenes the development standard for Lot size, communal living areas and communal open space by more than 10%.

Note: A summary of the submission period will be provided to the panel via an addendum assessment report considering the outcome of the notification period as a part of the staff recommendation.

The proposal seeks development consent for the *retention of unauthorised works to permit the use of an 11 room co-living development, including partial demolition and construction to create new rooms and three ensuite bathrooms.*

Council’s compliance team investigated the premises, after receiving a complaint from the community. On 03 April 2025, a Notice of Intention was issued to the property owner, noting that:

*A recent inspection of the subject premises has been carried out by a Council officer which has identified that the premises are being used for the purposes of a boarding house without obtaining the prior development consent from Council.*

The works were said to include:

- *Installation of partition walls to the ground floor dining/living space to create a bedroom with ensuite*
- *Creation of additional bedroom and ensuite accessed from the existing ground floor dining room and situated beneath the first-floor rumpus room*

- *Installation of partition walls to the first-floor rumpus room to create a bedroom with ensuite*
- *Installation of partition walls in the garage to create a bathroom and conversion of the garage to a bedroom*

On 11 July 2025, Council issued an Order, requiring:

1. *stop using the subject premises for the purposes of a boarding house including reversion of the garage to its intended use, and*
2. *demolish and remove the unauthorised partition walls to the ground floor dining/living space; demolish or remove the unauthorised ensuite in the additional bedroom accessed from the existing ground floor dining room and cease using the space as a bedroom; demolish or remove the unauthorised partition walls to the first-floor rumpus room; and demolish or remove the unauthorised partition walls and bathroom in the garage.*

The applicant then proceeded to lodge the subject development application to seek approval for the unauthorised works.

The key issues associated with the proposal relate to:

- Non-compliance with Lot Size, Communal Living Areas and Communal Open Space Development Standards. The Clause 4.6 variation requests are inadequate and are not supported by Council.
- The proposal has not provided Clause 4.6 variation requests for:
  - Non-compliant Car Parking (inaccurate parking assessment, quoting the incorrect number of rooms).
  - Non-compliant Landscaping
- No manager workspace/room provided in accordance with Section 69(1)(d)
- Extensive BCA/NCC non-compliances, including unsafe stairways, lack of compliant handrails, unmarked glazing, and inadequate natural light to several rooms.
- Absence of an acoustic report, preventing assessment of internal and external noise impacts.
- The cumulative effect of the above resulting in substandard amenity and inconsistency with the R3 Medium Density Residential zone.
- Unclear as built plans and unauthorised works to CDC/315/2022, including the “subfloor storage to be removed and backfilled”.

## **2. Site Description and Locality**

The subject site is known as 21 Forsyth Street, Kingsford and is legally described as Lot 1 in DP 34717. The site is 335.1m<sup>2</sup>, is regular in shape and has a 10.06m frontage to Forsyth Street to the West. The site is a corner allotment and has a secondary street frontage to Middle Street to the south (being 33.53m in length). The Northern side boundary is 33.53m and the eastern rear boundary is 10.06m.

The site contains a two-storey brick rendered and timber residence with a parapet and metal roof.





**Figure 1:** Aerial Imagery of 21 Forsyth Street (Source: NearMap 2025)

The site is mostly flat across the Forsyth Street (western) frontage. The site significantly slopes up from the western frontage to the eastern rear boundary. From RL 31.04 to RL 35.73, being an increase of 4.69m.



**Figure 2:** 21 Forsyth Street, as shown from corner of Forsyth and Middle Street (Source: Applicant)

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Figure 3: Outbuilding that is now being used for co-living rooms (Source: Council)



Figure 4: Southern Side Facade of 21 Forsyth Street (Source: Council)





Figure 5: Shared Kitchen for the co-living development (Source: Realestate.com.au)

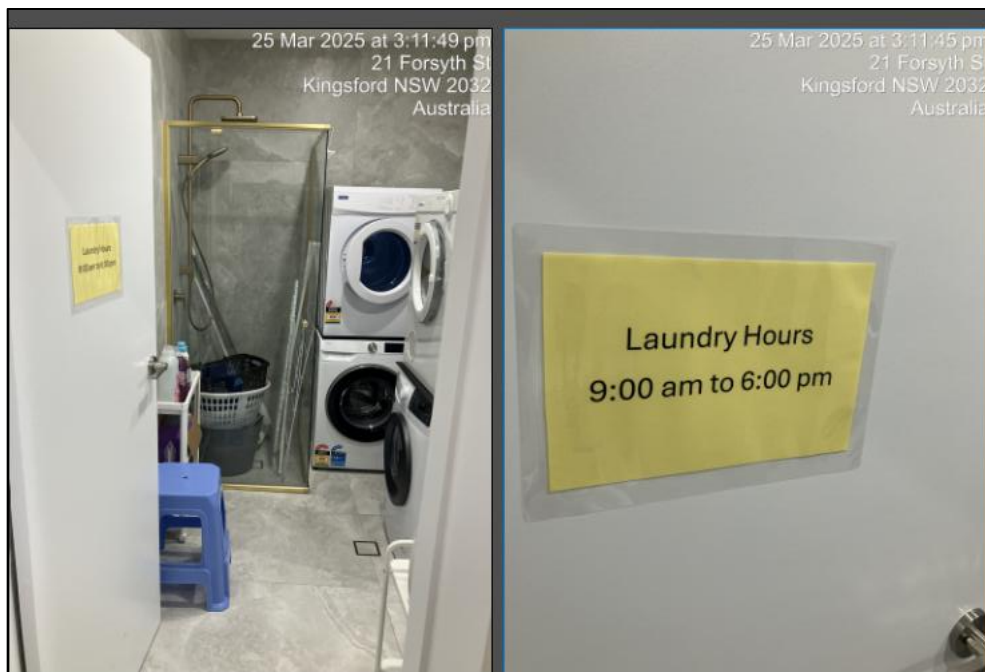


Figure 6: Shared Laundry (Source: Council)

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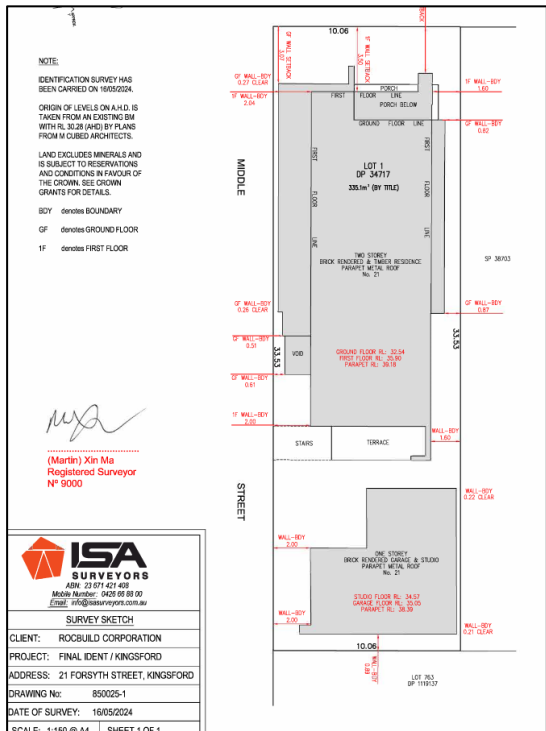


Figure 7: Identification Survey Plan (Source: Applicant)

Surrounding development includes:

North

17 – 19 Forsyth Street.

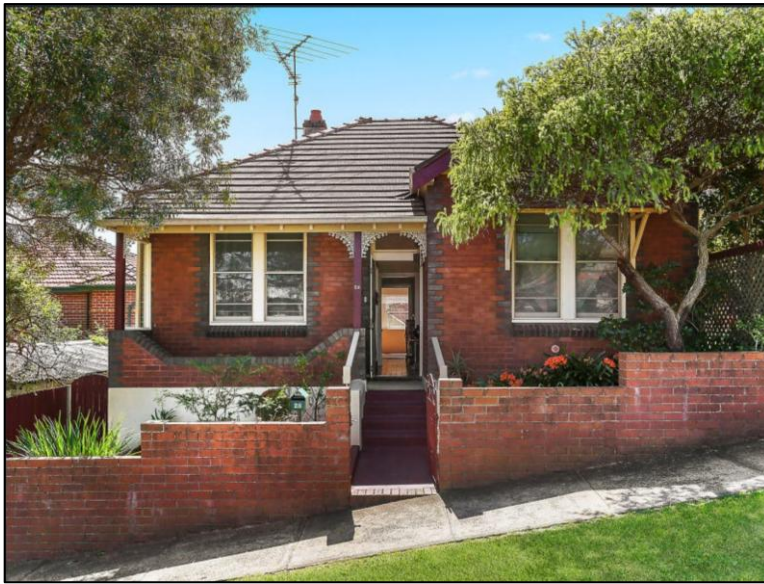


Figure 8: 17 - 19 Forsyth Street, Kingsford (Source: Domain 2017)



East

28 Middle Street



**Figure 9:** 28 Middle Street, Kingsford (Source: Realestate.com.au)

### 3. Relevant history

DA/352/2020 sought approval for *Demolition of existing structures, construction of a new boarding house containing thirty-two (32) rooms (16 x single rooms; 16 x double rooms (including an onsite manager's room)), and basement car parking for seventeen (17) vehicles, seven (7) motorcycles and seven (7) bicycles under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. (Integrated Development (Variation to Height). Approval for this application is also required by Water NSW. This was refused on 31 October 2022.*

CDC/315/2022 for *Alterations and additions to existing dwelling and construction of proposed outbuilding. AC CDC No.22622/01. This was approved on 16 September 2022.*

### 4. Proposal

The proposal seeks development consent for *Retention of unauthorised works to permit the use of an 11 room co-living development, including partial demolition and construction to create new rooms and three ensuite bathrooms.*

Specifically, the proposal seeks:

#### Ground Floor

- Conversion of kitchen to be communal for the purposes of co-living. Creation of a communal laundry within a shared bathroom.
- Unauthorised works to create an addition room (104) and ensuite where the living room was approved
- Converting the dining area to a 'foyer/sitting area'
- "Existing sub-floor area storage to be removed and backfilled" (**it is unclear what this consists of and what it is currently being used for**. According to Council: "*Creation of additional bedroom and ensuite accessed from the existing ground floor dining room and situated beneath the first-floor rumpus room*"

#### First Floor

- Conversion of rumpus into a room (205)

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- Enclosure of the rear terrace into ensuite with the installation of window.
- Reconfigured entrance at the rear
- "Foyer/sitting area"

**Outbuilding**

- Conversion of garage to a room (301) with an ensuite
- Conversion of gym to a room (302)
- Removal of carparking

**Ancillary/ Exterior**

- Conversion of front porch to a planter box.
- Creation of Outdoor Communal Open Space.

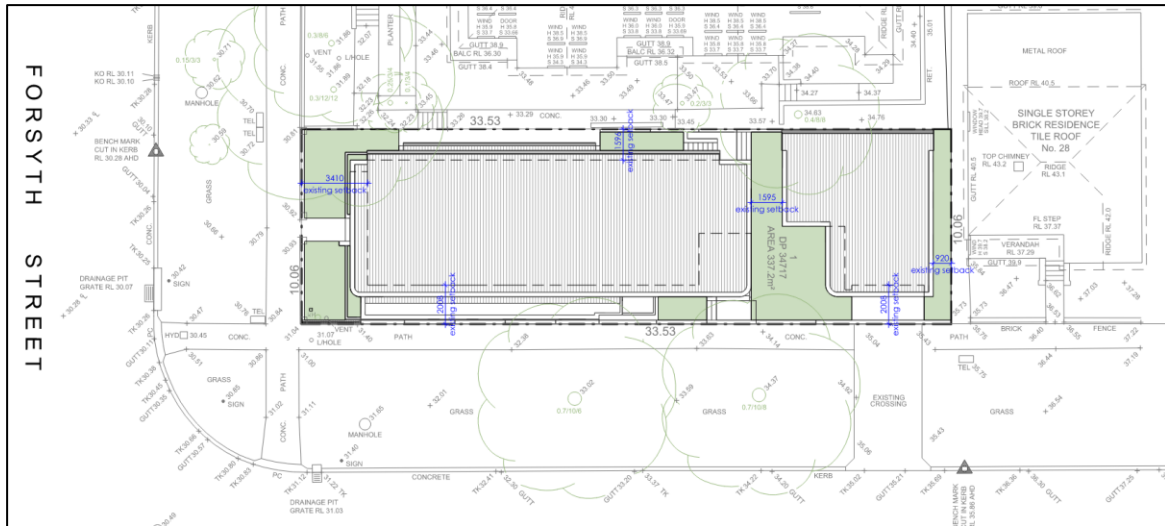


Figure 10: Proposed Site Plan (Source: Applicant)

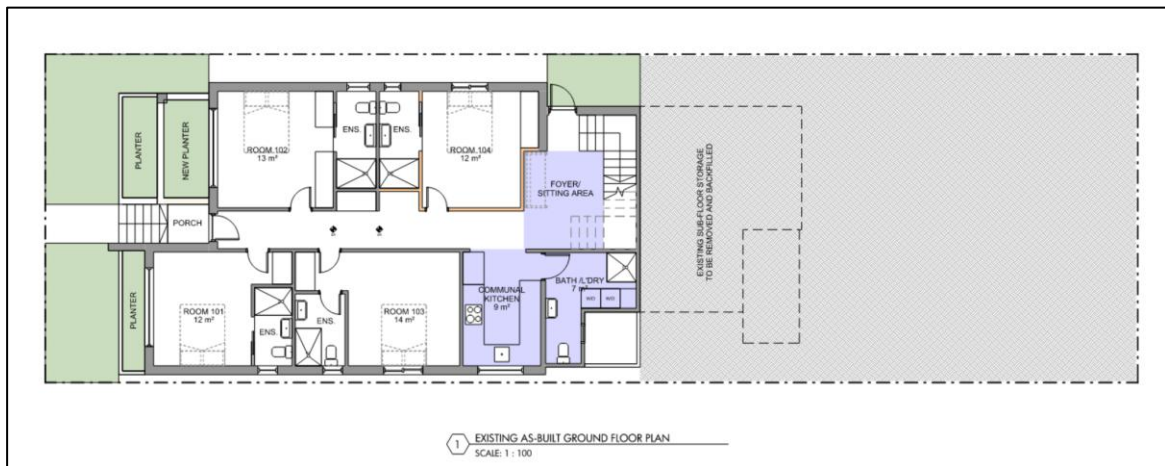


Figure 11: Proposed and as-built ground floor plan (Source: Applicant)

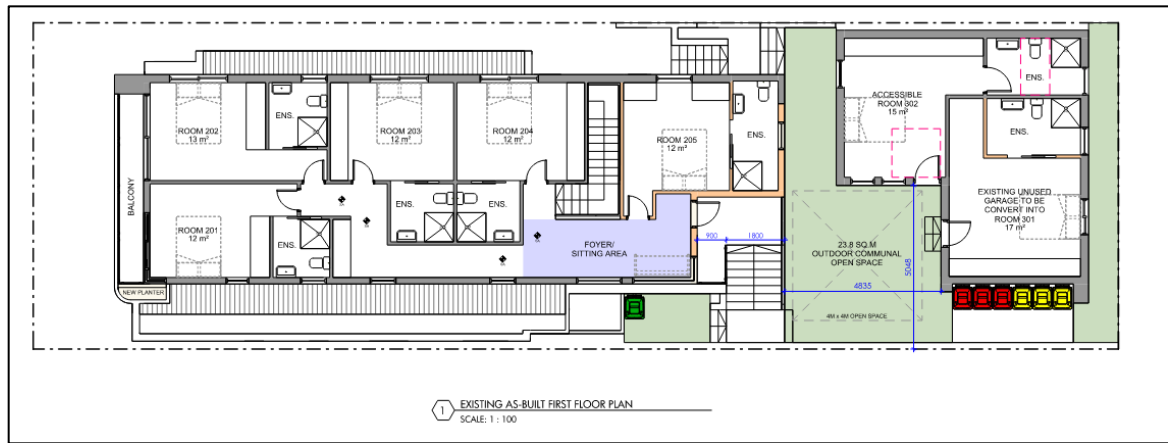


Figure 12: Existing and as-built first floor plan (Source: Applicant)

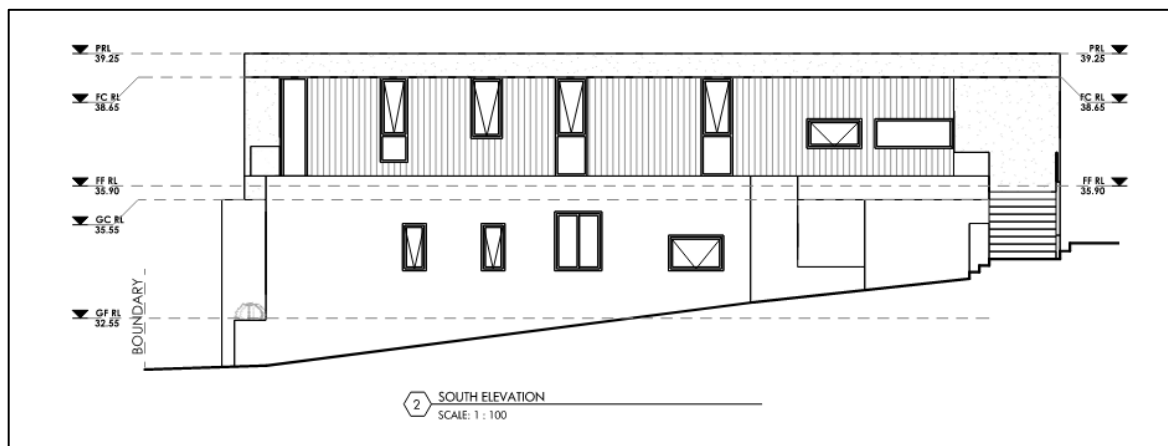


Figure 13: Southern Elevation (Source: Applicant)

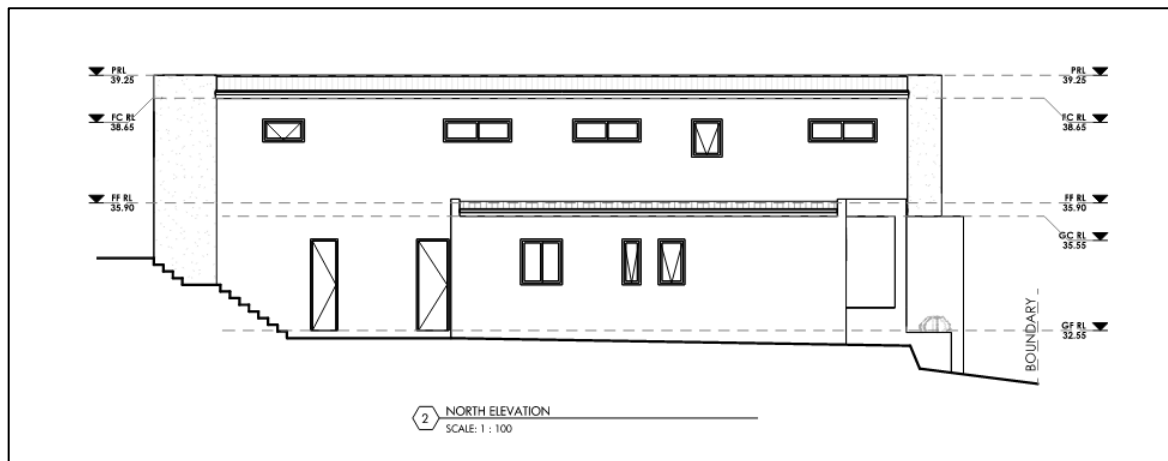


Figure 14: Northern Elevation (Source: Applicant)

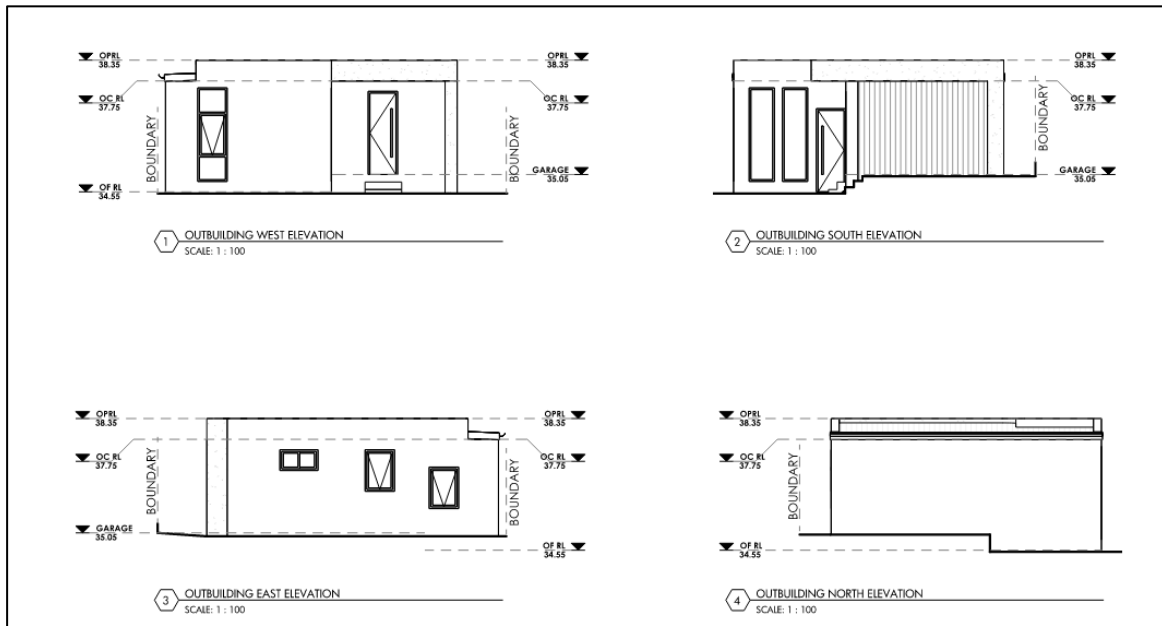


Figure 15: Outbuilding elevations (Source: Applicant)

**5. Notification**

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy.

Due to the clear non-compliances with the proposal, concerns for potential occupant safety, and the compliance investigations undertaken, the assessment has been prioritised, meaning that the notification period has not concluded.

A addendum assessment report will be provided to the Randwick Local Planning Panel members advising of any submissions received (as well as a response to any points raised) during the submission period, which concludes on 05 December 2025 and will also be made publicly available prior to the meeting on the 11<sup>th</sup> December 2025 in accordance the Panel operational guidelines.

**6. Relevant Environment Planning Instruments**

**6.1. SEPP (Housing) 2021**

Chapter 3 – Diverse Housing – Co-Living Housing

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

Section	Design Criteria	Proposal	Compliance
<b>Part 3: Co-living housing</b>			
<b>67</b>	<b>Co-living housing may be carried out on certain land with consent</b>		
	Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing is permitted under another environmental planning instrument, or development for the purposes of residential flat buildings or shop top housing is permitted under Chapter 5 or another environmental planning instrument.	Residential Flat Buildings are permitted with development consent under RLEP 2012 in the R3 Zone. Co-living is therefore permitted with development consent on the land.	Complies.

Section	Design Criteria	Proposal	Compliance
68	<b>Non-discretionary development standards—the Act, s 4.15</b>		
	(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing—		
	(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than— (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,	The Maximum Floor Space Ratio permitted under the RLEP 2012 is 0.75:1.  An additional 10% would enable 0.825:1.  The proposed FSR is 0.769:1. However, it is unclear whether the scheme is compliant due to concerns regarding the use of the existing subfloor area.	Unclear – (proposed for backfill)
	(c) for co-living housing containing more than 6 private rooms— (i) a total of at least 30m <sup>2</sup> of communal living area plus at least a further 2m <sup>2</sup> for each private room in excess of 6 private rooms, and (ii) minimum dimensions of 3m for each communal living area,	The proposed co-living development contains 11 rooms.  Therefore, the required communal living area is 40m <sup>2</sup> .  The proposed communal living area is 0m <sup>2</sup> (nil).	No.
	(d) communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	20% of the site area is (335.1 * 0.2) = 67.02m <sup>2</sup> .  24m <sup>2</sup> has been provided.	No.
	(e) unless a relevant planning instrument specifies a lower number— (i) for development on land in an accessible area—0.2 parking spaces for each private room, or (ii) otherwise—0.5 parking spaces for each private room,	The development is within an accessible area, being approx. 350m to Kingsford Light Rail Station.  For a development containing 11 rooms, 2.2 car parking spaces are required.  No Spaces have been provided, and no clause 4.6 variation request has been submitted.	No.
	(f) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	The minimum landscape requirements are derived from the C2 – Medium Density DCP, requiring 50% of the site area to be landscaped open space.	No.

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Section	Design Criteria	Proposal	Compliance
		21.6% is proposed.	
<b>69</b>	<b>Standards for co-living housing</b>		
	(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—		
	(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m <sup>2</sup> and not less than— (i) for a private room intended to be used by a single occupant—12m <sup>2</sup> , or (ii) otherwise—16m <sup>2</sup> , and	Measurements of the rooms is shown in the key issues section, many of the rooms are too small.	No.
	(b) the minimum lot size for the co-living housing is not less than— (i) for development on land in Zone R2 Low Density Residential—600m <sup>2</sup> , or (ii) for development on other land—800m <sup>2</sup> , and	The lot size is 335.1m <sup>2</sup> , which is a variation of 464.9m <sup>2</sup> .  The Clause 4.6 variation is not supported.	No.
	(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and	No workspace has been provided.	No.
	(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and	A 9m <sup>2</sup> communal kitchen for the use of 11 rooms is considered undersized.	No.
	(g) each private room will be used by no more than 2 occupants, and	Rooms are said to be single occupancy on the architectural plans.	Yes.
	(h) the co-living housing will include adequate bicycle and motorcycle parking spaces.	No motorcycle or bicycle parking has been shown.	No.
	(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—		
	(a) the front, side and rear setbacks for the co-living housing are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or	The setbacks for multi-dwelling housing are outlined in the Randwick Development Control Plan, Part C2.  The frontage width is 10.06m. Therefore, it is considered on merit.  The built form was already approved, however, the conversion to co-living is not supported.	Not supported.
	(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and	The proposal is two stories.	N/A.



Section	Design Criteria	Proposal	Compliance
	(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and	There is no communal living area.	No.
	(f) the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.	The precinct is undergoing transition. The proposal does not align with the desired future character of the precinct, noting the numerous non-compliances with the Co-Living development standards. Approving this use would set an undesirable precedent.	No.
<b>70</b>	<b>No Subdivision</b>		
	Development consent must not be granted for the subdivision of co-living housing into separate lots.	No subdivision is proposed.	N/A.

## 6.2. SEPP (Sustainable Buildings) 2022

No Basix Certificate is required for Co-Living development.

## 6.3. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP applies to the proposal and subject site. The aims of this Chapter are:

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

The proposed development does not involve the removal of any vegetation (including any trees).

## 6.4. SEPP (Resilience and Hazards) 2021

### Chapter 4 - Remediation of Land

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

The subject site has only previously been used for residential purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development, including a change of use, retention of building works and proposed building works are unlikely to contain contamination.

The works relating to the “existing subfloor storage” are unclear and must be demonstrated in a future application.

## 6.5. Randwick Local Environmental Plan 2012 (LEP)

On 18 August 2023, the Department of Planning and Environment (DPE) formally notified the LEP amendment (amendment No. 9) updating the *Randwick Local Environmental Plan 2012*, and the updated LEP commenced on 1 September 2023. As the subject application was lodged on or after

1 September 2023, the provisions of RLEP 2012 (Amendment No. 9) are applicable to the proposed development, and the proposal shall be assessed against the updated RLEP 2012.

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

The proposal is inconsistent with the objectives of the zone in that the proposed activity and built form will not protect the amenity of the local residents.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	0.769:1	No. – Refer to assessment above. Compliant with Co-living bonus.
Cl 4.3: Building height (max)	9.5m.	7.85m	Yes.

The CDC approval (CDC/315/2022) had an approved FSR of 0.67:1 (226m<sup>2</sup> of GFA).

The applicants GFA calculations show a GFA of 257.63m<sup>2</sup>, which equates to an FSR of 0.769:1, which exceeds the RLEP. However, the proposal will align with the 10% bonus afforded for Co-living development. Refer to detailed assessment above.



**Figure 16:** Applicants GFA Calculations (Source: Applicant)

The building height is RL 39.25 (Approved Roof RL) – RL 31.4 (lowest NGL) = 7.85m.

**6.5.1. Clause 4.6 - Exceptions to development standards**

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

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



The proposal seeks to vary the following development standards contained within the State Environmental Planning Policy (Housing) 2021:

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl. 68 (2)(c) Minimum Communal Living Area	40m <sup>2</sup>	0m <sup>2</sup>	40 m <sup>2</sup>	100%.
Cl. 68 (2)(d) Minimum Communal Open Space	67.02m <sup>2</sup>	24m <sup>2</sup>	43.33m <sup>2</sup>	64%
Cl. 69 (1)(b) (2) Minimum Lot Size	800m <sup>2</sup>	335.1m <sup>2</sup>	464.9m <sup>2</sup>	58%

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

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

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

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

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

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

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

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

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces the previous decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 regarding how to determine whether the applicant's written

request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

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

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

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

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

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

### **7.1. Exception to the Minimum Communal Living Area development standard (CI 68(2)(c)) of the SEPP (Housing) 2021.**

The applicant’s written justification for the departure from the Communal Living Area standard is contained in Appendix 2.

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

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

There are no objectives relating specifically to the communal living area standard, however, any underlying objective, in this case the principles of the Housing SEPP policy, would be considered relevant in terms of enabling co-living development. The principles of the policy stipulated in clause 3 are:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,

- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,
- (c) ensuring new housing development provides residents with a reasonable level of amenity,
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- (e) minimising adverse climate and environmental impacts of new housing development,
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,
- (h) mitigating the loss of existing affordable rental housing.

The applicant's written justification seeks to demonstrate that these objectives is satisfied by noting that:

*The proposed co-living development is considered to be consistent with these principles. The proposed co-living housing will provide for greater housing diversity in a growing area, that will meet the needs of households in need of less expensive housing as co-living rooms are often inherently more affordable than renting a self-contained dwelling due to their generally smaller unit sizes, inability to be owner occupied, and shared cooking and laundry facilities. No existing affordable housing is being reduced, and the new proposal does not impact any adverse climate or environmental impacts.*

Council assessment:

There is no evidence that these rooms will be affordable. The development does not provide sufficient amenity for residents, noting the non-compliant communal living area, outdoor space, room size, natural light and other issues noted in the report. The objectives have not been met, the applicant's assessment is not supported. The applicant's assessment has not actually considered and justified against the objectives.

Assessing officer's comment: In conclusion, the applicant's written request has **not** adequately demonstrated that compliance with the Communal Living Area development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

*For the reasons detailed throughout this report, it is considered there are sufficient environmental planning grounds to justify a variation to the communal living area development standard.*

Council assessment:

There are no environmental planning grounds to support this variation. The request has not identified any suitable reasons why Council should accept a variation to the development standard. The request does not focus on communal living areas.

Assessing officer's comment: In conclusion, the applicant's written request has **not** adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

## Conclusion

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

### 7.2. Exception to the Communal Open Space Development Standard (Clause 68 (2(d)) of the SEPP (Housing) 2021.

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

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

There are no objectives relating specifically to the Communal Open Space standard, however, any underlying objective, in this case the principles of the Housing SEPP policy, would be considered relevant in terms of enabling boarding house development. The principles of the policy stipulated in clause 3 are:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,
- (c) ensuring new housing development provides residents with a reasonable level of amenity,
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- (e) minimising adverse climate and environmental impacts of new housing development,
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,
- (h) mitigating the loss of existing affordable rental housing.

The applicant's written justification seeks to demonstrate that these objectives is satisfied by noting that:

*The proposed co-living development is considered to be consistent with these principles. The proposed co-living housing will provide for greater housing diversity in a growing area, that will meet the needs of households in need of less expensive housing as co-living rooms are often inherently more affordable than renting a self-contained dwelling due to their generally smaller unit sizes, inability to be owner occupied, and shared cooking and laundry facilities. No existing affordable housing is being reduced, and the new proposal does not impact any adverse climate or environmental impacts.*

Councils Assessment:

There is no evidence that these rooms will be affordable. The development does not provide sufficient amenity for residents, noting the non-compliant communal living area, outdoor space, room size, natural light and other issues noted in the report. The objectives have not been met, the applicant's assessment is not supported. The applicant's assessment has not actually considered and justified against the objectives.

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

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

*For the reasons detailed throughout this report, it is considered there are sufficient environmental planning grounds to justify a variation to the communal open space development standard.*

Council assessment:

There are no environmental planning grounds to support this variation. The request has not identified any suitable reasons why Council should accept a variation to the development standard. The request does not focus on communal open space.

Assessing officer's comment: In conclusion, the applicant's written request has **not** adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

**Conclusion**

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

**7.3. Exception to the Minimum lot size development standard (Clause 69(1)(b)(2)) of the SEPP (Housing) 2021.**

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

The applicant's written request seeks to justify the contravention of the minimum lot size development standard (Section 69 (1)(b)(ii) of the Housing SEPP) by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

It is considered the applicant has not properly formulated their argument for the Lot Size Variation. Council considers that instead of using the SEPP (Housing) 2021 Objectives, the applicant should have also utilised the RLEP 2012 Lot Size Objectives, as detailed below. The applicants Clause 4.6 is not specific to the Lot size variation and has been copied from the other inadequate requests outlined above.

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

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

Council Assessment: the proposal will have unreasonable amenity impacts on neighbouring properties:

- No parking has been provided, when 2 spaces are required under the control framework.
  - No acoustic report has been provided.
- (b) to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and to retain special features such as trees and views.

Council Assessment: the proposal does not have adequate landscaped area or communal open spaces.

- (c) to ensure that lot sizes are able to accommodate development that is suitable for its purpose.

Council Assessment: This is vitally important as the lot size is not large enough to support this development, particularly because the built form already exists and there are no meaningful changes to improve the amenity of the development. The proposal does not meet the standards in the following areas:

- Carparking, bicycle and motorcycle parking
- Communal Open Space
- Communal living spaces
- Landscaped area
- The laundry and kitchen are undersized, there is no manager workspace
- Many of the room sizes are non-compliant and undersized.

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

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

*For the reasons detailed throughout this report, it is considered there are sufficient environmental planning grounds to justify a variation to the minimum lot size development standard.*

The clause 4.6 has addressed incorrect objectives and has also not focused on any Environmental Planning Grounds to justify the variation to the Minimum Lot Size Development Standard.

Assessing officer's comment: In conclusion, the applicant's written request has **not** adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

### Conclusion

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

### Overall assessment of the Clause 4.6 Variation Requests:

In general, the three variation requests:

- Do not detail the impacts, such as:
  - o How will the absence of communal open space or communal living areas affect residential amenity.
- Have not considered how reconfiguration could result in compliance or an improved outcome.
- Do not include a quantitative assessment or evidence.



## 8. Development control plans and policies

### 8.1. Randwick Comprehensive DCP 2013

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

## 9. Environmental Assessment

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

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

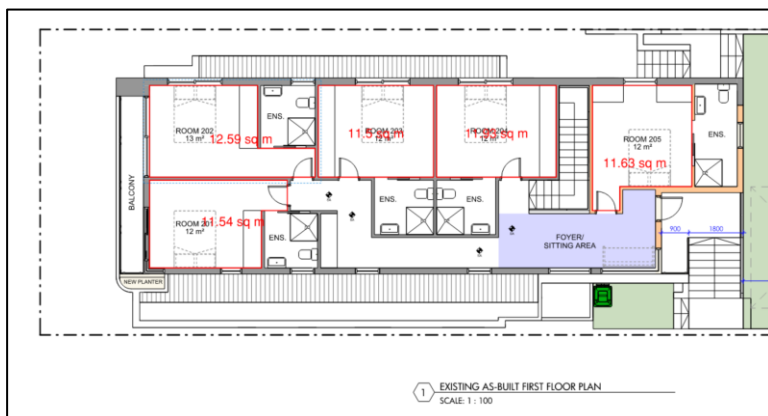
**9.1. Discussion of key issues**

Inadequate Room sizes

As shown in the figures below, the room sizes are less than 12m<sup>2</sup>. The rooms are also poorly configured, with multiple rooms containing unsuitable spaces, such as narrow corridors. No Clause 4.6 variation request has been provided to vary the requirements of the Housing SEPP 2021.



**Figure 17:** Room sizes of Ground Floor (Source: Council Markup using scale)



**Figure 18:** Room sizes of First Floor (Source: Council Markup using scale)

Landscaped Open Space and deep soil

Section 2.2.1 ii) of the C2 (Medium Density Residential) DCP requires: *For multi dwelling housing and attached dwellings, a minimum of 50% of the site area is to be landscaped open space. A minimum width of 2m of landscaped open space is to be provided*

The following items are considered to constitute landscaped open space:

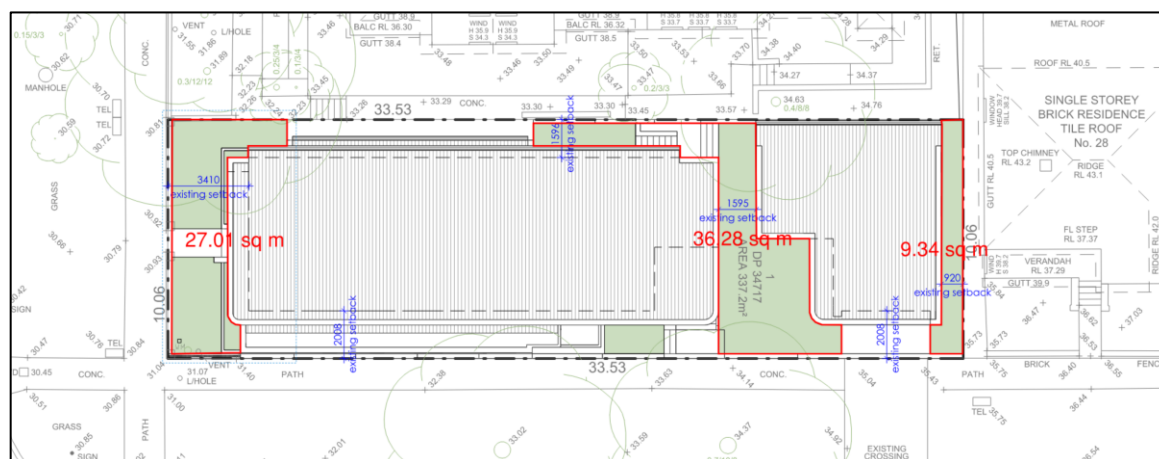
- (a) "Landscaped area" as defined in RLEP (including areas of deep soil planting)
- (b) Outdoor recreation areas including communal open space (not located on the roof)
- (c) Unroofed swimming pools
- (d) Clothes drying areas
- (e) Barbecue areas and ancillary structures
- (f) Footpaths
- (g) Landscaped podium areas (not more than 1.5m above ground level existing) and water tanks at ground level
- (h) Paved areas



(i) Areas covered by shading structures that are located at ground level and substantially open on the side elevations without wall enclosure, such as cabanas, pergolas, canopies and the like but excluding verandas, balconies and decks (see clause iv) below .

Landscaped open space area excludes:

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



**Figure 19:** Councils Calculation of Landscaped Open Space (Source: Council)

As per the calculation above, the landscaped open space is 72.62m<sup>2</sup>, which equates to 21.6% of the overall requirement and falls well short of the required 50% provision.

## 10. Conclusion

That the application for the retention of unauthorised works to permit the use of an 11 room co-living development, including partial demolition and construction to create new rooms and (3x) ensuite bathrooms (Clause 4.6 Variation to Minimum Lot Size, Communal living area and opens space), be refused for the following reasons:

1. Pursuant to Clause 2.3 of RLEP 2012, the proposal is inconsistent with the objectives of the R3 Medium Density Zone in that it does not complement the desired future built form outcomes of the locality, does not have a high amenity and protect the amenity of residents, is inconsistent with the Council's strategic planning for residential development in the area, and does not facilitate a high standard of urban design.
2. Pursuant to Clause 4.6 of RLEP 2012, the Applicant has failed to submit a written request to vary the Car Parking Rate, Landscaping or room size development standards under the SEPP (Housing) 2021. The Applicant has failed demonstrate that the proposed non-compliances are unreasonable or unnecessary in the circumstances of the case and has failed to demonstrate that there are sufficient environmental planning grounds to justify variation to the development standards.
3. Pursuant to Section 68(2)(c) of the SEPP (Housing) 2021, the proposal does not provide sufficient communal living areas (nil provided). The submitted Clause 4.6 Assessment is not supported.
4. Pursuant to Section 68(2)(d) of the SEPP (Housing) 2021, the proposal does not provide sufficient communal open space. The submitted Clause 4.6 Assessment is not supported.

5. Pursuant to Section 69(1)(b)(ii) of the SEPP (Housing) 2021, the suitability of the site for the proposed development as not been adequately demonstrated as the site does not comply with the relevant lot size development standard. The submitted Clause 4.6 Assessment is not supported.
6. Pursuant to Section 68 (2) (e) and (f) of the SEPP (Housing) 2021, the proposal has not provided sufficient car parking or landscaping.
7. Pursuant to Section 69 (1)(a)(i) of the SEPP (Housing) 2021, the proposal has not provided sufficient room sizes.
8. Pursuant to Section 69(1)(d), (f), and (h) of the SEPP (Housing) 2021, the proposal has not provided an appropriate workspace for the manager, sufficient kitchen size or adequate bicycle and motorcycle parking.
9. Pursuant to Section 69(2) of the SEPP (Housing) 2021, the proposal:
  - a. Does not provide sufficient setback to Middle Street.
  - b. Does not provide sufficient solar access to a communal living area.
  - c. Is not of a compatible design for the desired future character of the precinct.
10. The BCA/NCC non-compliances, including unsafe stairways, lack of compliant handrails, unmarked glazing, and inadequate natural light to several rooms are not supported.
11. A full and robust assessment of the proposal cannot be completed as insufficient information has been submitted relating to Acoustic impacts and the provision of clear as-built plans.
12. Pursuant to the provisions of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the likely impacts from the Application as detailed in this report are considered unacceptable.
13. Pursuant to Section 4.15(1)(c) of Environmental Planning and Assessment Act 1979, the Subject Site is not considered suitable for the proposed development and has not demonstrated that it is capable of facilitating the extent of development sought.

## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. Environmental Health

*The application does not include an acoustic report. While the site is not immediately adjacent to major traffic or rail corridors, the conversion from a single dwelling to 11 rooms with 12 residents represents a significant intensification of use.*

*An acoustic assessment is important to address potential internal noise transfer between rooms and communal areas, as well as impacts on neighbouring properties. It should also confirm that any acoustic treatments proposed will not compromise ventilation requirements under the NCC.*

*The proponent must provide a report prepared by a suitably qualified acoustic consultant, demonstrating compliance with AS/NZS 2107 for internal noise levels and outline how ventilation will be maintained if acoustic measures involve sealed windows.*

#### 1.2. Building regulation

##### **Comments:**

*Rise of storeys – 2  
Classification – Class 1b – boarding house.  
Type C construction.*

##### **Background.**

*DA/352/2020 – Demolition and construction of new boarding house containing 32 rooms – Refused.  
CDC/315/2022 – Alterations and additions to existing dwelling and construction of proposed outbuilding – Approved by Exclusive Certifiers.  
Occupation Certificate – Issued by Exclusive Certifiers.*

*A complaint was received, in March 2025, advising of the building being subdivided and is operating as a boarding house.*

*An investigation and inspection by Council's Senior Building Surveyor revealed that unauthorised works had been carried out and the premises were being used as a boarding house without prior development consent.*

*Consequently, a Notice of Intention, dated 3 April 2025, was sent to the owner and there was an exchange of emails between the respective parties.*

*The Order, dated 11 July 2025, under Order No 1 and No 3, was sent to the owner (Mr W Kwan and Mr W Kwan – IDA Properties) in relation to the alleged unauthorised use and the alleged unauthorised building works.*

##### **BCA Assessment Report – DA/1150/2025.**

*An examination of the executive summary for the Assessment Report, prepared by Allcert dated 9 October 2025, revealed the following works do not comply with the requirements of the BCA/NCC;*

*Item No 1 – The level 1 SOUs that provide entrance to the balconies have full glazed that are not marked with opaque bands (BCA Clause 8.4.7 – Visibility of glazing)*

*Item No 4 – The provision of natural light provided to the following sole occupancy units is less than 10% of the floor area;*

- Room 104 is 8%
- Room 203 is 6%
- Room 204 is 6%
- Room 205 is 3% (BCA Clause 10.5.1 – Natural light)

*Item 5 – There are external single risers in the locations below (see photo) that are not compliant with this Clause and are deemed to be trip hazards (BCA Clause 11.2.2 – Stairway construction).*

*Item 6 – There are no handrails fitted to the stairway to the front ground floor entrance from Forsyth St. The handrail on the internal stairway does not extend to the first riser and stops just short of the second riser and is only on one side. Also the barrier/handrail on the open side of the stairway is not continuous along the winding risers and goings.*

*The stairway from the rear exit on Level 1 does not have a handrail that does not a handrail that extends from the top landing to the bottom landing (BCA Clause 11.3.5 – Handrails).*

*To summarise, the abovementioned non compliances with the BCA make the current building unsafe and unhealthy.*

**Recommendation:**

*It is recommended that the Development Application be refused due to the extent of the non compliances with the requirements of the BCA/NCC make the building unsafe and unhealthy.*

**1.3. Development Engineer**

*In accordance with the SEPP requirements, the proposed 11-room co-living development must provide a total of two car spaces (rounded). Prior to its conversion to co-living, the site included one car space within an internal garage. As part of the conversion, this garage was repurposed into a co-living room, resulting in the loss of the existing car space. Consequently, the development now has a shortfall of two car spaces. This increase in parking shortfall is not acceptable.*

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

***Communal Open Space***



**D75/25**

**Clause 4.6 Written Variation Request –  
Communal Open Space**

**21 Forsyth Street, Kingsford**

*“Change of use to co-living housing with alterations and additions”*

24 October 2025



**1. BACKGROUND**

This Clause 4.6 variation is a written request to vary a development standard to support a development application for the change of use to co-living housing with alterations and additions at 21 Forsyth Street, Kingsford. The proposal is in direct response to the growing housing needs of the Kingsford locality. The design is commensurate in scale, bulk, site coverage, and materiality to the existing approved dwelling and many of the other dwellings located in the immediate locality.

The proposed works include:

- **Change of use** from dwelling house to 11 x room co-living housing;
- **Partial demolition** of internal and external walls of the main building and outbuilding;
- **Construction** of new internal and external walls within the main building and outbuilding to create new rooms including 3 x new ensuite bathrooms; and the
- **Retention** of most of the existing structures on site.

The proposal is of a reasonable scale and provides a high quality and durable co-living housing development which will assist to meet the high demand for spacious and functional housing in the Kingsford locality. The development is commensurate in scale and character with other properties in the streetscape, generally maintaining the existing approved building envelope. The variation results in the substantial increase in amenity for the subject site without producing any adverse impacts on the privacy, views, solar access and overall amenity of surrounding properties.

1.1 Clause 68(2)(d) of the State Environmental Planning Policy (Housing) 2021

Clause 68(2)(d) of the *State Environmental Planning Policy (Housing) 2021* requires at least 20% of the site area to be provided as communal open space, with minimum dimensions of 3m.

Less than 20% of the site is communal open space.

1.2 Variation Summary Table

Component	Requirement	Proposal	Variation %
Cl 68(2)(d) Communal Open Space	20% site area (67.44sqm)	7% of site area (24sqm)	64% (43.33sqm)

### **Environmental Planning Grounds Relied Upon**

The term 'environmental planning grounds' is not defined and may be interpreted with wide scope as has been the practice of the Land and Environment Court. The environmental planning grounds supporting variation are outlined as follows.

The development represents a successfully functioning co-living building.

The proposed design features a functional and high quality development, with high levels of amenity for residents and visitors. There is adequate living area within each of the private rooms, or within the communal outdoor area which is provided. The communal laundry and kitchen areas also provide the site with areas for communal socialisation and interaction, in addition to the outdoor communal area and private rooms.

Providing a communal open space measuring 20% of the site area would reduce the available area for housing and require the unnecessary demolition of existing built fabric

The existing building footprint does not lend itself to providing 20% site area as open space. If 20% were to be provided as outdoor communal space, numerous rooms would need to be demolished which reduces the availability of housing.

The location of the site near high quality open space provides residents with areas for socialisation and communal activities

There is a reasonable alternative communal outdoor area within parks located a few minutes walking distance from the site (such as Physics Lawn, Village Green or Shaw Reserve).

The non-compliance will have no material impacts on surrounding development.

The non-compliance does not have any physical impacts to the surrounding area. The building is generally retaining an envelope which is similar to the most recently approved development.

Orderly and economic use of land.

The social benefits of providing a development that improves the private rooms available for housing in the area should be given weight in the consideration of the variation request. Given the nature of alterations and additions, strict compliance with the standard would result in a site that underproviding housing supply, which is in conflict with the intended objectives of the R3 zone.

The proposal meets aims and objectives of key planning documents.

The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone (detailed in the accompanying Statement of Environmental Effects). The proposed development also achieves the objects in Section 1.3 of the EPA Act, specifically the proposal promotes the orderly and economic use and development of land through the proposed works provide additional residential facilities that better meet the needs and

significantly improve the living amenity opportunities of the residents (1.3(c)), and the proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).

## 2. IS THE STANDARD A DEVELOPMENT STANDARD?

A development standard is defined in Section 1.4 of the Environmental Planning and Assessment Act 1979 ("EPA Act") to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- b) the proportion or percentage of the area of a site which a building or work may occupy,
- c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- d) the cubic content or floor space of a building,
- e) the intensity or density of the use of any land, building or work,
- f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- h) the volume, nature and type of traffic generated by the development,
- i) road patterns,
- j) drainage,
- k) the carrying out of earthworks,
- l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- m) the provision of services, facilities and amenities demanded by development,**
- n) the emission of pollution and means for its prevention or control or mitigation, and
- o) such other matters as may be prescribed."

The communal open space control falls under subsection (m); therefore, the control is a development standard.



### 3. CLAUSE 4.6 OF THE STANDARD INSTRUMENT AND RANDWICK LOCAL ENVIRONMENTAL PLAN 2012

The Standard Instrument SEPP contains its own variations clause (Clause 4.6) to allow the variation of development standards. Clause 4.6 of the Standard Instrument is similar in tenor to the former State Environmental Planning Policy No. 1; however, the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) and case law suggests a similar approach to SEPP 1 may be taken in part.

There is abundant judicial guidance on how variations under Clause 4.6 variations should be assessed. Some of these cases are taken into consideration in this request for variation.

While it is not necessary to refer to case law, we do so as it has become customary in sustaining requests under Clause 4.6.

### 4. THE ONUS ON THE APPLICANT

Under Clause 4.6(3)(a), it is the onus of the applicant to demonstrate: -

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

In the case of *Samadi v Council of the City of Sydney* [2014] NSWLEC 1199.

#### Paragraph 27 of the judgement states: -

Clause 4.6 of SEPP 2013 imposes four preconditions on the Court in exercising the power to grant consent to the proposed development. The first precondition (and not necessarily in the order in cl 4.6) requires the Court to be satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)). The second precondition requires the Court to be satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii)). The third precondition requires the Court to consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6(4)(a)(i)). The fourth precondition requires the Court to consider a written request that demonstrates that there are sufficient environmental planning grounds to justify

contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(b) and cl 4.6(4)(a)(i)).

**Precondition 1 - Consistency with zone objectives**

The NSW Department of Planning and Environment 'Guide to Varying Development Standards' was published in November 2023, with updated guidance and instruction regarding the requirements of a Clause 4.6 written variation request.

The Guide advised that consistency with zone objectives is no longer a matter for consideration within a Clause 4.6, as such an assessment is undertaken in accordance with Clause 4.15 of the NSW Environmental Planning and Assessment Act (EP&A Act) 1979. The requirements of Clause 4.15 of the EP&A Act have been considered in the assessment of this DA within the Statement of Environmental Effects (SEE) report prepared by Tuesday Projects, submitted alongside this DA.

**Precondition 2 - Consistency with the objectives of the standard**

There are no objectives relating specifically to the communal open space standard, however, any underlying objective, in this case the principles of the Housing SEPP policy, would be considered relevant in terms of enabling boarding house development. The principles of the policy stipulated in clause 3 are:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,*
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- (c) ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) minimising adverse climate and environmental impacts of new housing development,*
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- (h) mitigating the loss of existing affordable rental housing.*

The proposed co-living development is considered to be consistent with these principles. The proposed co-living housing will provide for greater housing diversity in a growing area, that will meet the needs of households in need of less expensive housing as co-living rooms are often inherently more affordable than renting a self-contained dwelling due to their generally smaller unit sizes, inability to be owner occupied, and shared cooking and laundry facilities. No existing affordable housing is being reduced, and the new proposal does not impact any adverse climate or environmental impacts.

For the above reasons, I am of the view that the variation requested and the resultant development is consistent with the objectives of the development standard and an appropriate degree of flexibility is warranted. Consequently, I conclude that strict compliance with the development standard is unreasonable and unnecessary.

**Precondition 3 - To consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

It is the onus of the Council to form an opinion of satisfaction that the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

For the reasons detailed in this request, I am of the opinion that Council may form the necessary opinion of satisfaction that there are sufficient environmental planning grounds to support a variation. By contrast, a compliant proposal would not allow the substantial upgrade in residential amenity in the manner intended.

Further, given that the development satisfies the objectives of the zone and the development standard, numerical compliance is considered unreasonable and unnecessary in the circumstances of the case.

**Precondition 4 – To consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court [or consent authority] finding that the matters required to be demonstrated have been adequately addressed**

According to recent caselaw, Council is required to be satisfied that there are sufficient environmental planning grounds to support a variation to a development standard. Satisfaction as to sufficient environmental planning grounds is a matter for the Council to determine and need not be site specific. The term 'environmental planning grounds' is not defined and may be interpreted with wide scope.

For the reasons detailed throughout this report, it is considered there are sufficient environmental planning grounds to justify a variation to the communal open space development standard.

In the 'Four2Five' judgement (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90), Pearson C, outlined in her judgement that a Clause 4.6 variation requires identification of grounds that are particular to the circumstances to the proposed development. That is to say that simply meeting the objectives of the development standard is insufficient justification of a Clause 4.6 variation.

It should be noted that a Judge of the Court, and later the Court of Appeal, upheld the Four2Five decision but expressly noted that the Commissioner's decision on that point (that she was not "satisfied" because something more specific to the site was required) was simply a discretionary (subjective) opinion which was a matter for her alone to decide. It does not mean that Clause 4.6 variations can only ever be allowed where there is some special or particular feature of the site that justifies the non-compliance. Whether there are "sufficient environmental planning grounds to justify contravening the development standard" is something that can be assessed on a case-by-case basis and is for the consent authority to determine for itself.

The more recent appeal of *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 is to be considered. In this case the Council appealed against the original decision, raising very technical legal arguments about whether each and every item of clause 4.6 of the SEPP had been meticulously considered and complied with (both in terms of the applicant's written document itself, and in the Commissioner's assessment of it). In February 2017, the Chief Judge of the Court dismissed the appeal, finding no fault in the Commissioner's approval of the large variations to the height and FSR controls.

While the judgment did not directly overturn the *Four2Five v Ashfield* decision an important issue emerged. The Chief Judge noted that one of the consent authority's obligation is to be satisfied that "the applicant's written request has adequately addressed ...that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ...and that there are sufficient environmental planning grounds to justify contravening the development standard." He held that this means (emphasis added):

"the Commissioner did not have to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary".

However, in the judgement of *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, there was further clarification of the construction of Clause 4.6. The Court asserted that:-

"... in order for a consent authority to be satisfied that an applicant's written request has "adequately addressed" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subcl (3) (which is the process required by cl 4.6(3)), the request must in fact demonstrate the matters in subcl (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i))."



This is consistent with a previous judgment in *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, where on appeal of a commissioner’s decision, the Court affirmed at [78] that “The request cannot ‘adequately’ address the matters required to be demonstrated by cl 4.6(3) if it does not in fact demonstrate the matters”.

Accordingly, regarding the proposed variation to the communal open space requirements, it is considered that this Clause 4.6 request has in fact demonstrated sufficient environmental planning grounds for Council to be satisfied that the request is adequate and to allow appropriate flexibility.

There is also no requirement under Clause 4.6 or case law that a non-compliant development must demonstrate a better planning outcome. (*Initial Action Pty Ltd v Woollahra Municipal Council* (2018). Refer also to Section 5 below.

Additionally, under (*Initial Action Pty Ltd v Woollahra Municipal Council* (2018) at [24], the Chief Judge stated that “The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole”. It is considered that this request is consistent with this aspect of the judgment as it does not rely on promotion of the benefits of the development.

According to the relevant case law, there are other common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are summarised in *Wehbe v Pittwater Council* (2007).

The five tests under *Wehbe* are tabulated below. Only one of the tests needs to be satisfied. Consideration of a variation is not limited to these tests – they are simply the most common ways invoked in considering whether compliance is unreasonable or unnecessary.

Test	Comments
1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.	<p>The objectives of the development standard are satisfied. Refer to discussion under Precondition 2.</p> <p>The objectives of the standard are concerned with the achievement of amenity for future residents. I conclude that the proposed communal open space size standard is generally appropriate as it results in a high amenity living arrangement, however, in light of suitable alternative off-site open space areas and the</p>



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	<p>strong need for housing in this area, a variation is suitable for the subject development.</p> <p>The application demonstrates that objectives of the standard are achieved through the qualitative design outcomes rather than a strict numerical approach.</p>
<p>2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;</p>	<p>The objective of the development standard is considered to be relevant to the development however the objective is achieved and strict compliance is unreasonable and unnecessary.</p>
<p>3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;</p>	<p>Not applicable — Compliance does not defeat the underlying object of the standard development; however, compliance would prevent the approval of an otherwise supportable development and prevent the site to better meet the zoning objectives as discussed in part 4 of this document.</p>
<p>4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;</p>	<p>Not applicable — the development standards of communal open space cover a wide area and whilst they are not appropriate to this site, they are appropriate to other sites elsewhere in the locality which are less connected to alternative open spaces.</p> <p>The development standard has not been abandoned.</p>
<p>5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.</p>	<p>The zoning of the land is appropriate for the development standard.</p>

## 5. THE ONUS ON THE CONSENT AUTHORITY

Pursuant to Cl.4.6(4)(a), the Council must form the positive opinion of satisfaction that the applicant's written request has adequately addressed both of the matters required to be demonstrated by Clause 4.6(3)(a) and (b) and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. (Initial Action Pty Ltd v Woollahra Municipal Council (2018)).

In assisting the consent authority in forming its opinion of satisfaction as to the public interest test under Cl.4.6(4)(a)(ii), I refer to the discussion concerning objectives for development within the zone in which the development is proposed to be carried out. The objectives and comments are provided under Precondition 2.

The resulting development continues to improve the amenity and diversity of housing for the residents in a medium-density residential environment and the built form is compatible with established local character and amenity.

We maintain that the variation to the communal open space requirements does not result in development that is incompatible with the environmental character of the locality. The proposal demonstrates harmony with the relevant zone objectives, the objectives of the standard and satisfies the public interest test.

## 6. CONCLUSION

The purpose of the application is to apply for the change of use to co-living housing with alterations and additions at 21 Forsyth Street, Kingsford. The nature of the proposal necessitates a variation to the communal open space requirements. The proposal will be commensurate in bulk and siting to surrounding development within the locality.

As development standards tend to be strictly numerical in nature, they fail to take into consideration the nature of the development, any site constraints, or qualitative aspects of the development or of the particular circumstances of the case. Clause 4.6 of the standard instrument SEPP allows such an analysis to be carried out.

It has been demonstrated in this request that strict compliance with the minimum communal open space requirements is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to allow Council to form the opinion of satisfaction that this written request has adequately addressed the matters required to be demonstrated by Cl.4.6(3)(a) and (b).

Therefore, I request that council support the variation on the basis that this Clause 4.6 variation demonstrates that strict compliance with the development standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify a variation to the development standard.



Emma Rogerson

Specialist Town Planner

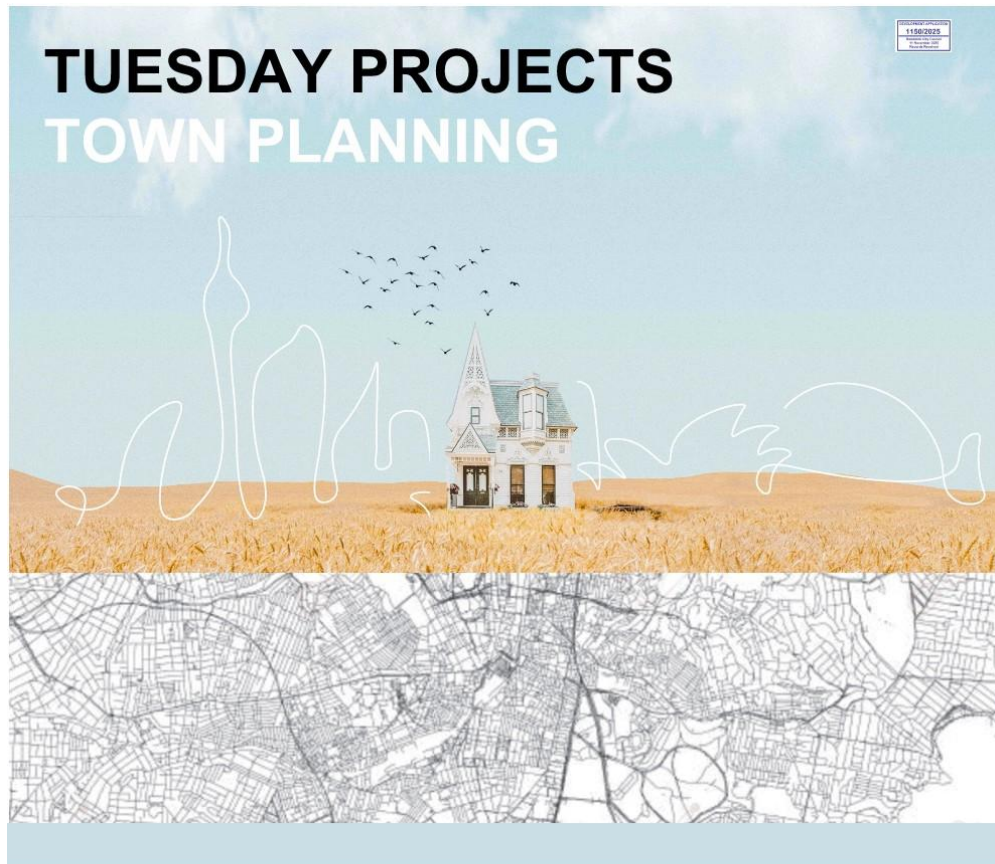
**Master of Urbanism (Urban and Regional Planning) (USYD)**

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## Communal Living Area



D75/25

### Clause 4.6 Written Variation Request – Communal Indoor Living Area

21 Forsyth Street, Kingsford

*“Change of use to co-living housing with alterations and additions”*

24 October 2025

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**1. BACKGROUND**

This Clause 4.6 variation is a written request to vary a development standard to support a development application for the change of use to co-living housing with alterations and additions at 21 Forsyth Street, Kingsford. The proposal is in direct response to the growing housing needs of the Kingsford locality. The design is commensurate in scale, bulk, site coverage, and materiality to the existing approved dwelling and many of the other dwellings located in the immediate locality.

The proposed works include:

- **Change of use** from dwelling house to 11 x room co-living housing;
- **Partial demolition** of internal and external walls of the main building and outbuilding;
- **Construction** of new internal and external walls within the main building and outbuilding to create new rooms including 3 x new ensuite bathrooms; and the
- **Retention** of most of the existing structures on site.

The proposal is of a reasonable scale and provides a high quality and durable co-living housing development which will assist to meet the high demand for spacious and functional housing in the Kingsford locality. The development is commensurate in scale and character with other properties in the streetscape, generally maintaining the existing approved building envelope. The variation results in the substantial increase in amenity for the subject site without producing any adverse impacts on the privacy, views, solar access and overall amenity of surrounding properties.

1.1 Clause 68(2)(c) of the State Environmental Planning Policy (Housing) 2021

Clause 68(2)(c) of the *State Environmental Planning Policy (Housing) 2021* states that for co-living housing containing more than 6 private rooms a total of at least 30m<sup>2</sup> of communal living area plus at least a further 2m<sup>2</sup> for each private room in excess of 6 private rooms. The communal living area must have minimum dimensions of 3m.

No communal living area is proposed.

1.2 Variation Summary Table

Component	Requirement	Proposal	Variation %
Cl 68(2)(c) Communal Living Area	For 11 bedrooms, minimum 40sqm	Nil	100%



### **Environmental Planning Grounds Relied Upon**

The term 'environmental planning grounds' is not defined and may be interpreted with wide scope as has been the practice of the Land and Environment Court. The environmental planning grounds supporting variation are outlined as follows.

The development represents a successfully functioning co-living building.

The proposed design features a functional and high quality development, with high levels of amenity for residents and visitors. There is adequate living area within each of the private rooms. The communal laundry and kitchen areas provide the site with areas for communal socialisation and interaction.

Providing a communal living area in addition to the current private rooms would create adverse bulk impacts

The addition of a 40sqm communal living area would significantly increase bulk as viewed from the streetscape, as the site is positioned on a corner which does not lend itself to concealing additional bulk well.

Providing a communal living area within the existing bulk would adversely reduce housing capacity

By removing numerous private rooms to accommodate a communal living area, the co-living building will not be able to maximise its contribution to housing supply in the locality. As acknowledged by the Federal and State Governments through the National Housing Accord, there is a critical undersupply of housing now.

The location of the site near high quality open space provides residents with areas for socialisation and communal activities

The site is located within comfortable walking distance to open spaces (parks and reserves) and commercial properties which can accommodate gatherings and socialisation. The lack of a dedicated communal living area on site is therefore not to the detriment of residents as off-site alternatives exist.

The non-compliance will have no material impacts on surrounding development.

The non-compliance does not have any physical impacts to the surrounding area.

Orderly and economic use of land.

The social benefits of providing a development that improves the private rooms available for housing in the area should be given weight in the consideration of the variation request. Given the nature of alterations and additions, strict compliance with the standard would result in a site that underproviding housing supply, which is in conflict with the intended objectives of the R3 zone.

The proposal meets aims and objectives of key planning documents.

The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone (detailed in the accompanying Statement of Environmental Effects). The proposed development also achieves the objects in Section 1.3 of the EPA Act, specifically the proposal promotes the orderly and economic use and development of land through the proposed works provide additional residential facilities that better meet the needs and significantly improve the living amenity opportunities of the residents (1.3(c)), and the proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).

## 2. IS THE STANDARD A DEVELOPMENT STANDARD?

A development standard is defined in Section 1.4 of the Environmental Planning and Assessment Act 1979 ("EPA Act") to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- b) the proportion or percentage of the area of a site which a building or work may occupy,
- c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- d) the cubic content or floor space of a building,
- e) the intensity or density of the use of any land, building or work,
- f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- h) the volume, nature and type of traffic generated by the development,
- i) road patterns,
- j) drainage,
- k) the carrying out of earthworks,
- l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- m) the provision of services, facilities and amenities demanded by development,**
- n) the emission of pollution and means for its prevention or control or mitigation, and
- o) such other matters as may be prescribed."

The communal living area control falls under subsection (m); therefore, the control is a development standard.

### **3. CLAUSE 4.6 OF THE STANDARD INSTRUMENT AND RANDWICK LOCAL ENVIRONMENTAL PLAN 2012**

The Standard Instrument SEPP contains its own variations clause (Clause 4.6) to allow the variation of development standards. Clause 4.6 of the Standard Instrument is similar in tenor to the former State Environmental Planning Policy No. 1; however, the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) and case law suggests a similar approach to SEPP 1 may be taken in part.

There is abundant judicial guidance on how variations under Clause 4.6 variations should be assessed. Some of these cases are taken into consideration in this request for variation.

While it is not necessary to refer to case law, we do so as it has become customary in sustaining requests under Clause 4.6.

### **4. THE ONUS ON THE APPLICANT**

Under Clause 4.6(3)(a), it is the onus of the applicant to demonstrate: -

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

In the case of *Samadi v Council of the City of Sydney* [2014] NSWLEC 1199.

#### **Paragraph 27 of the judgement states: -**

Clause 4.6 of SEPP 2013 imposes four preconditions on the Court in exercising the power to grant consent to the proposed development. The first precondition (and not necessarily in the order in cl 4.6) requires the Court to be satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)). The second precondition requires the Court to be satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii)). The third precondition requires the Court to consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6(4)(a)(i)). The fourth precondition requires the Court to consider a written request that demonstrates that there are sufficient environmental planning grounds to justify

contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(b) and cl 4.6(4)(a)(i)).

**Precondition 1 - Consistency with zone objectives**

The NSW Department of Planning and Environment 'Guide to Varying Development Standards' was published in November 2023, with updated guidance and instruction regarding the requirements of a Clause 4.6 written variation request.

The Guide advised that consistency with zone objectives is no longer a matter for consideration within a Clause 4.6, as such an assessment is undertaken in accordance with Clause 4.15 of the NSW Environmental Planning and Assessment Act (EP&A Act) 1979. The requirements of Clause 4.15 of the EP&A Act have been considered in the assessment of this DA within the Statement of Environmental Effects (SEE) report prepared by Tuesday Projects, submitted alongside this DA.

**Precondition 2 - Consistency with the objectives of the standard**

There are no objectives relating specifically to the communal living area standard, however, any underlying objective, in this case the principles of the Housing SEPP policy, would be considered relevant in terms of enabling boarding house development. The principles of the policy stipulated in clause 3 are:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,*
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- (c) ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) minimising adverse climate and environmental impacts of new housing development,*
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- (h) mitigating the loss of existing affordable rental housing.*

The proposed co-living development is considered to be consistent with these principles. The proposed co-living housing will provide for greater housing diversity in a growing area, that will meet the needs of households in need of less expensive housing as co-living rooms are often inherently more affordable than renting a self-contained dwelling due to their generally smaller unit sizes, inability to be owner occupied, and shared cooking and laundry facilities. No existing affordable housing is being reduced, and the new proposal does not impact any adverse climate or environmental impacts.



For the above reasons, I am of the view that the variation requested and the resultant development is consistent with the objectives of the development standard and an appropriate degree of flexibility is warranted. Consequently, I conclude that strict compliance with the development standard is unreasonable and unnecessary.

**Precondition 3 - To consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

It is the onus of the Council to form an opinion of satisfaction that the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

For the reasons detailed in this request, I am of the opinion that Council may form the necessary opinion of satisfaction that there are sufficient environmental planning grounds to support a variation. By contrast, a compliant proposal would not allow the substantial upgrade in residential amenity in the manner intended.

Further, given that the development satisfies the objectives of the zone and the development standard, numerical compliance is considered unreasonable and unnecessary in the circumstances of the case.

**Precondition 4 – To consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court [or consent authority] finding that the matters required to be demonstrated have been adequately addressed**

According to recent caselaw, Council is required to be satisfied that there are sufficient environmental planning grounds to support a variation to a development standard. Satisfaction as to sufficient environmental planning grounds is a matter for the Council to determine and need not be site specific. The term 'environmental planning grounds' is not defined and may be interpreted with wide scope.

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"the Commissioner did not have to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary".

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"... in order for a consent authority to be satisfied that an applicant's written request has "adequately addressed" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subcl (3) (which is the process required by cl 4.6(3)), the request must in fact demonstrate the matters in subcl (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i))."

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Accordingly, regarding the proposed variation to the communal living area requirements, it is considered that this Clause 4.6 request has in fact demonstrated sufficient environmental planning grounds for Council to be satisfied that the request is adequate and to allow appropriate flexibility.

There is also no requirement under Clause 4.6 or case law that a non-compliant development must demonstrate a better planning outcome. (*Initial Action Pty Ltd v Woollahra Municipal Council* (2018). Refer also to Section 5 below.

Additionally, under (*Initial Action Pty Ltd v Woollahra Municipal Council* (2018) at [24], the Chief Judge stated that “The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole”. It is considered that this request is consistent with this aspect of the judgment as it does not rely on promotion of the benefits of the development.

According to the relevant case law, there are other common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are summarised in *Wehbe v Pittwater Council* (2007).

The five tests under *Wehbe* are tabulated below. Only one of the tests needs to be satisfied. Consideration of a variation is not limited to these tests – they are simply the most common ways invoked in considering whether compliance is unreasonable or unnecessary.

Test	Comments
1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.	<p>The objectives of the development standard are satisfied. Refer to discussion under Precondition 2.</p> <p>The objectives of the standard are concerned with the achievement of amenity for future residents. I conclude that the proposed communal living area size standard is generally appropriate as it results in a high amenity living arrangement, however, in light of suitable alternative off-site open space areas and the</p>

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	<p>strong need for housing in this area, a variation is suitable for the subject development.</p> <p>The application demonstrates that objectives of the standard are achieved through the qualitative design outcomes rather than a strict numerical approach.</p>
<p>2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;</p>	<p>The objective of the development standard is considered to be relevant to the development however the objective is achieved and strict compliance is unreasonable and unnecessary.</p>
<p>3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;</p>	<p>Not applicable — Compliance does not defeat the underlying object of the standard development; however, compliance would prevent the approval of an otherwise supportable development and prevent the site to better meet the zoning objectives as discussed in part 4 of this document.</p>
<p>4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;</p>	<p>Not applicable — the development standards of communal living area cover a wide area and whilst they are not appropriate to this site, they are appropriate to other sites elsewhere in the locality which are less connected to alternative open spaces.</p> <p>The development standard has not been abandoned.</p>
<p>5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.</p>	<p>The zoning of the land is appropriate for the development standard.</p>

## 5. THE ONUS ON THE CONSENT AUTHORITY

Pursuant to Cl.4.6(4)(a), the Council must form the positive opinion of satisfaction that the applicant's written request has adequately addressed both of the matters required to be demonstrated by Clause 4.6(3)(a) and (b) and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. (Initial Action Pty Ltd v Woollahra Municipal Council (2018)).

In assisting the consent authority in forming its opinion of satisfaction as to the public interest test under Cl.4.6(4)(a)(ii), I refer to the discussion concerning objectives for development within the zone in which the development is proposed to be carried out. The objectives and comments are provided under Precondition 2.

The resulting development continues to improve the amenity and diversity of housing for the residents in a medium-density residential environment and the built form is compatible with established local character and amenity.

We maintain that the variation to the communal living area requirements does not result in development that is incompatible with the environmental character of the locality. The proposal demonstrates harmony with the relevant zone objectives, the objectives of the standard and satisfies the public interest test.

## 6. CONCLUSION

The purpose of the application is to apply for the change of use to co-living housing with alterations and additions at 21 Forsyth Street, Kingsford. The nature of the proposal necessitates a variation to the communal living area requirements. The proposal will be commensurate in bulk and siting to surrounding development within the locality.

As development standards tend to be strictly numerical in nature, they fail to take into consideration the nature of the development, any site constraints, or qualitative aspects of the development or of the particular circumstances of the case. Clause 4.6 of the standard instrument SEPP allows such an analysis to be carried out.

It has been demonstrated in this request that strict compliance with the minimum communal living area requirements is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to allow Council to form the opinion of satisfaction that this written request has adequately addressed the matters required to be demonstrated by Cl.4.6(3)(a) and (b).

Therefore, I request that council support the variation on the basis that this Clause 4.6 variation demonstrates that strict compliance with the development standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify a variation to the development standard.



Emma Rogerson

Specialist Town Planner

**Master of Urbanism (Urban and Regional Planning) (USYD)**

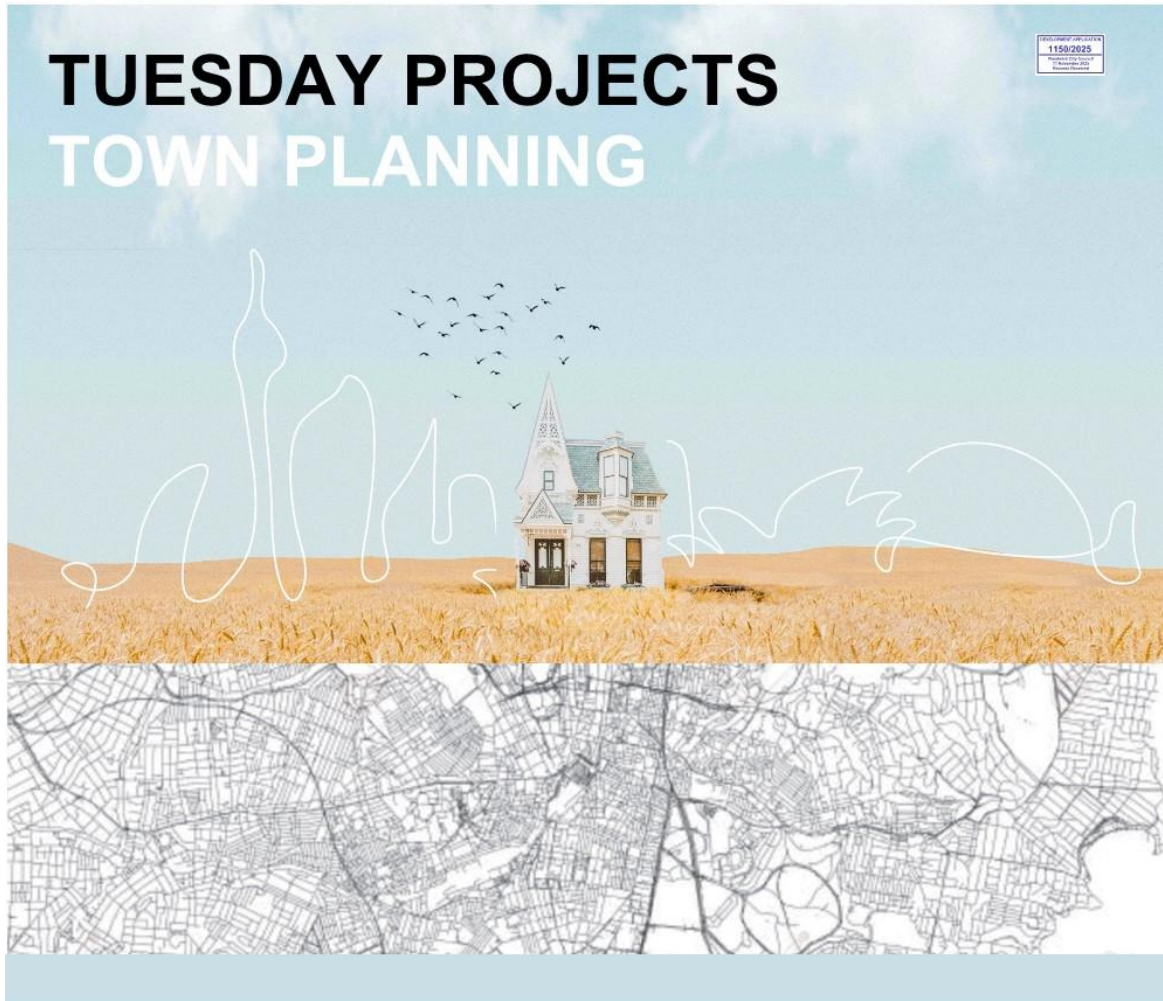
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**Minimum Lot Size**



**D75/25**

**Clause 4.6 Written Variation Request – Lot Size**

21 Forsyth Street, Kingsford

*“Change of use to co-living housing with alterations and additions”*

25 July 2025

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**1. BACKGROUND**

This Clause 4.6 variation is a written request to vary a development standard to support a development application for the change of use to co-living housing with alterations and additions at 21 Forsyth Street, Kingsford. The proposal is in direct response to the growing housing needs of the Kingsford locality. The design is commensurate in scale, bulk, site coverage, and materiality to the existing approved dwelling and many of the other dwellings located in the immediate locality.

The proposed works include:

- **Change of use** from dwelling house to 11 x room co-living housing;
- **Partial demolition** of internal and external walls of the main building and outbuilding;
- **Construction** of new internal and external walls within the main building and outbuilding to create new rooms including 3 x new ensuite bathrooms; and the
- **Retention** of most of the existing structures on site.

The proposal is of a reasonable scale and provides a high quality and durable co-living housing development which will assist to meet the high demand for spacious and functional housing in the Kingsford locality. The development is commensurate in scale and character with other properties in the streetscape, generally maintaining the existing approved building envelope. The variation results in the substantial increase in amenity for the subject site without producing any adverse impacts on the privacy, views, solar access and overall amenity of surrounding properties.

1.1 Clause 69 of the State Environmental Planning Policy (Housing) 2021

Clause 69 of the *State Environmental Planning Policy (Housing) 2021* states that development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that the minimum lot size for the co-living housing is not less than 800sqm for land zoned anything other than R2 Low Density Residential.

The development site a 21 Forsyth Street, Kingsford has a lot size of 337.2sqm.

1.2 Variation Summary Table

Component	Requirement	Proposal	Variation %
Cl 69 Lot Size	Minimum 800sqm	337.2sqm	57%

**Environmental Planning Grounds Relied Upon**

The term 'environmental planning grounds' is not defined and may be interpreted with wide scope as has been the practice of the Land and Environment Court. The environmental planning grounds supporting variation are outlined as follows.

The development represents a successfully functioning co-living building.

The proposed design features a functional and high quality development, with high levels of amenity for residents and visitors.

The non-compliance is a result of the existing site constraints.

The site is limited in area due to the longstanding subdivision pattern and fragmented land ownership within the wider the immediate locality. Due to high land values in the Kingsford area, it is not feasible to amalgamate with neighbouring sites to achieve the minimum 800sqm needed.

The non-compliance is entirely consistent with the character of the locality.

The proposed development is consistent with the precincts' medium density character, defined by building envelopes that directly align with the subject building. The proposed variation can also be considered compatible with other forms of residential development in the visual catchment which assists in being compatible with the desired future character. The physical building on site is largely aligned with the envelope of an approved dwelling house.

The non-compliance will have no material impacts on surrounding development.

The non-compliance does not have any physical impacts to the surrounding area, as no major physical changes will occur as a result of the change of use. Traffic impacts are mitigated by way of close proximity to public transport and active transport.

It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically, the undersized lot results in no detrimental overshadowing, visual bulk, streetscape or privacy impacts.

Orderly and economic use of land.

The social benefits of providing a development that improves the functionality and housing diversity of the area should be given weight in the consideration of the variation request. Given the nature of alterations and additions, strict compliance with the standard would result in a site that is sterilised for use as a dwelling house, which is in conflict with the intended objectives of the R3 zone.

The proposal meets aims and objectives of key planning documents.

The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone (detailed in the accompanying Statement of Environmental Effects). The proposed development also achieves the objects in Section 1.3 of the EPA Act, specifically the proposal promotes the orderly and economic use and development of land through the proposed works provide additional residential and commercial facilities that better meet the needs and significantly improve the living amenity opportunities of the residents (1.3(c)), and the proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).

The request will now further expand on the identified environmental planning grounds.

## 2. IS THE STANDARD A DEVELOPMENT STANDARD?

A development standard is defined in Section 1.4 of the Environmental Planning and Assessment Act 1979 ("EPA Act") to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- a) **the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,**
- b) the proportion or percentage of the area of a site which a building or work may occupy,
- c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- d) the cubic content or floor space of a building,
- e) the intensity or density of the use of any land, building or work,
- f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- h) the volume, nature and type of traffic generated by the development,
  - i) road patterns,
  - j) drainage,
- k) the carrying out of earthworks,
- l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- m) the provision of services, facilities and amenities demanded by development,
- n) the emission of pollution and means for its prevention or control or mitigation, and
- o) such other matters as may be prescribed."



The minimum lot size control falls under subsection (a); therefore, the control is a development standard.

### **3. CLAUSE 4.6 OF THE STANDARD INSTRUMENT AND RANDWICK LOCAL ENVIRONMENTAL PLAN 2012**

The Standard Instrument SEPP contains its own variations clause (Clause 4.6) to allow the variation of development standards. Clause 4.6 of the Standard Instrument is similar in tenor to the former State Environmental Planning Policy No. 1; however, the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) and case law suggests a similar approach to SEPP 1 may be taken in part.

There is abundant judicial guidance on how variations under Clause 4.6 variations should be assessed. Some of these cases are taken into consideration in this request for variation.

While it is not necessary to refer to case law, we do so as it has become customary in sustaining requests under Clause 4.6.

### **4. THE ONUS ON THE APPLICANT**

Under Clause 4.6(3)(a), it is the onus of the applicant to demonstrate: -

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

In the case of *Samadi v Council of the City of Sydney* [2014] NSWLEC 1199.

#### **Paragraph 27 of the judgement states: -**

Clause 4.6 of SEPP 2013 imposes four preconditions on the Court in exercising the power to grant consent to the proposed development. The first precondition (and not necessarily in the order in cl 4.6) requires the Court to be satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)). The second precondition requires the Court to be satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii)). The third precondition requires the Court to consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a)



and cl 4.6(4)(a)(i)). The fourth precondition requires the Court to consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(b) and cl 4.6(4)(a)(i)).

**Precondition 1 - Consistency with zone objectives**

The NSW Department of Planning and Environment 'Guide to Varying Development Standards' was published in November 2023, with updated guidance and instruction regarding the requirements of a Clause 4.6 written variation request.

The Guide advised that consistency with zone objectives is no longer a matter for consideration within a Clause 4.6, as such an assessment is undertaken in accordance with Clause 4.15 of the NSW Environmental Planning and Assessment Act (EP&A Act) 1979. The requirements of Clause 4.15 of the EP&A Act have been considered in the assessment of this DA within the Statement of Environmental Effects (SEE) report prepared by Tuesday Projects, submitted alongside this DA.

**Precondition 2 - Consistency with the objectives of the standard**

There are no objectives relating specifically to the minimum lot size standard, however, any underlying objective, in this case the principles of the Housing SEPP policy, would be considered relevant in terms of enabling boarding house development. The principles of the policy stipulated in clause 3 are:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,*
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- (c) ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) minimising adverse climate and environmental impacts of new housing development,*
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- (h) mitigating the loss of existing affordable rental housing.*

The proposed co-living development is considered to be consistent with these principles. The proposed co-living housing will provide for greater housing diversity in a growing area, that will meet the needs of households in need of less expensive housing as co-living rooms are often inherently more affordable than renting a self-contained dwelling due to their generally smaller unit sizes, inability to be owner occupied, and shared cooking and laundry facilities. No existing affordable

housing is being reduced, and the new proposal does not impact any adverse climate or environmental impacts.

For the above reasons, I am of the view that the variation requested and the resultant development is consistent with the objectives of the development standard and an appropriate degree of flexibility is warranted. Consequently, I conclude that strict compliance with the development standard is unreasonable and unnecessary.

**Precondition 3 - To consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

It is the onus of the Council to form an opinion of satisfaction that the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

For the reasons detailed in this request, I am of the opinion that Council may form the necessary opinion of satisfaction that there are sufficient environmental planning grounds to support a variation. By contrast, a compliant proposal would not allow the substantial upgrade in residential amenity in the manner intended.

Further, given that the development satisfies the objectives of the zone and the development standard, numerical compliance is considered unreasonable and unnecessary in the circumstances of the case.

**Precondition 4 – To consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court [or consent authority] finding that the matters required to be demonstrated have been adequately addressed**

According to recent caselaw, Council is required to be satisfied that there are sufficient environmental planning grounds to support a variation to a development standard. Satisfaction as to sufficient environmental planning grounds is a matter for the Council to determine and need not be site specific. The term 'environmental planning grounds' is not defined and may be interpreted with wide scope.

For the reasons detailed throughout this report, it is considered there are sufficient environmental planning grounds to justify a variation to the minimum lot size development standard.

In the 'Four2Five' judgement (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90), Pearson C, outlined in her judgement that a Clause 4.6 variation requires identification of grounds that are particular to the circumstances to the proposed development. That is to say that simply meeting the objectives of the development standard is insufficient justification of a Clause 4.6 variation.

It should be noted that a Judge of the Court, and later the Court of Appeal, upheld the Four2Five decision but expressly noted that the Commissioner's decision on that point (that she was not "satisfied" because something more specific to the site was required) was simply a discretionary (subjective) opinion which was a matter for her alone to decide. It does not mean that Clause 4.6 variations can only ever be allowed where there is some special or particular feature of the site that justifies the non-compliance. Whether there are "sufficient environmental planning grounds to justify contravening the development standard" is something that can be assessed on a case-by-case basis and is for the consent authority to determine for itself.

The more recent appeal of Randwick City Council v Mical Holdings Pty Ltd [2016] NSWLEC 7 is to be considered. In this case the Council appealed against the original decision, raising very technical legal arguments about whether each and every item of clause 4.6 of the SEPP had been meticulously considered and complied with (both in terms of the applicant's written document itself, and in the Commissioner's assessment of it). In February 2017, the Chief Judge of the Court dismissed the appeal, finding no fault in the Commissioner's approval of the large variations to the height and FSR controls.

While the judgment did not directly overturn the Four2Five v Ashfield decision an important issue emerged. The Chief Judge noted that one of the consent authority's obligation is to be satisfied that "the applicant's written request has adequately addressed ...that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ...and that there are sufficient environmental planning grounds to justify contravening the development standard." He held that this means (emphasis added):

"the Commissioner did not have to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary".

However, in the judgement of RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130, there was further clarification of the construction of Clause 4.6. The Court asserted that:-

"... in order for a consent authority to be satisfied that an applicant's written request has "adequately addressed" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subcl (3) (which is the

process required by cl 4.6(3)), the request must in fact demonstrate the matters in subcl (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i)).”

This is consistent with a previous judgment in *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, where on appeal of a commissioner’s decision, the Court affirmed at [78] that “The request cannot ‘adequately’ address the matters required to be demonstrated by cl 4.6(3) if it does not in fact demonstrate the matters”.

Accordingly, regarding the proposed variation to the minimum lot size, it is considered that this Clause 4.6 request has in fact demonstrated sufficient environmental planning grounds for Council to be satisfied that the request is adequate and to allow appropriate flexibility.

There is also no requirement under Clause 4.6 or case law that a non-compliant development must demonstrate a better planning outcome. (*Initial Action Pty Ltd v Woollahra Municipal Council* (2018)). Refer also to Section 5 below.

Additionally, under (*Initial Action Pty Ltd v Woollahra Municipal Council* (2018) at [24], the Chief Judge stated that “The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole”. It is considered that this request is consistent with this aspect of the judgment as it does not rely on promotion of the benefits of the development.

According to the relevant case law, there are other common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are summarised in *Wehbe v Pittwater Council* (2007).

The five tests under *Wehbe* are tabulated below. Only one of the tests needs to be satisfied. Consideration of a variation is not limited to these tests – they are simply the most common ways invoked in considering whether compliance is unreasonable or unnecessary.

Test	Comments
1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.	<p>The objectives of the development standard are satisfied. Refer to discussion under Precondition 2.</p> <p>The objectives of the standard are concerned with the achievement of compatibility with the character, amenity and landform of the area. I conclude that the proposed minimum lot size standard is appropriate as it results in a built form</p>



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	<p>that is compatible with the character, amenity and landform area.</p> <p>The application demonstrates that objectives of the standard are achieved through the qualitative design outcomes rather than a strict numerical approach.</p>
<p>2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;</p>	<p>The objective of the development standard is considered to be relevant to the development however the objective is achieved and strict compliance is unreasonable and unnecessary.</p>
<p>3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;</p>	<p>Not applicable — Compliance does not defeat the underlying object of the standard development; however, compliance would prevent the approval of an otherwise supportable development and prevent the site to better meet the zoning objectives as discussed in part 4 of this document.</p>
<p>4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;</p>	<p>Not applicable — the development standards of minimum lot size cover a wide area and whilst they are not appropriate to this site, they are appropriate to other sites elsewhere in the locality. There are numerous instances where consents departing from the standard have been approved and others where the standards have been upheld. This is more an indication of the inappropriateness of particular standards to some sites rather than a comment on Council's or the NSW Governments actions. The development standard has not been abandoned.</p>
<p>5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.</p>	<p>The zoning of the land is appropriate for the development standard.</p>



## 5. THE ONUS ON THE CONSENT AUTHORITY

Pursuant to Cl.4.6(4)(a), the Council must form the positive opinion of satisfaction that the applicant's written request has adequately addressed both of the matters required to be demonstrated by Clause 4.6(3)(a) and (b) and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. (*Initial Action Pty Ltd v Woollahra Municipal Council* (2018)).

In assisting the consent authority in forming its opinion of satisfaction as to the public interest test under Cl.4.6(4)(a)(ii), I refer to the discussion concerning objectives for development within the zone in which the development is proposed to be carried out. The objectives and comments are provided under Precondition 2.

The resulting development continues to improve the amenity and diversity of housing for the residents in a medium-density residential environment and the built form is compatible with established local character and amenity.

We maintain that the variation to the minimum lot size does not result in development that is incompatible with the environmental character of the locality. The proposal demonstrates harmony with the relevant zone objectives, the objectives of the standard and satisfies the public interest test.

## 6. CONCLUSION

The purpose of the application is to apply for the change of use to co-living housing with alterations and additions at 21 Forsyth Street, Kingsford. The nature of the proposal necessitates a variation to the lot size. The proposal will be commensurate in bulk and siting to surrounding development within the locality.

As development standards tend to be strictly numerical in nature, they fail to take into consideration the nature of the development, any site constraints, or qualitative aspects of the development or of the particular circumstances of the case. Clause 4.6 of the standard instrument SEPP allows such an analysis to be carried out.

It has been demonstrated in this request that strict compliance with the minimum lot size development standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to allow Council to form the opinion of satisfaction that this written request has adequately addressed the matters required to be demonstrated by Cl.4.6(3)(a) and (b).

Therefore, I request that council support the variation on the basis that this Clause 4.6 variation demonstrates that strict compliance with the development standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify a variation to the development standard.



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

**File Reference:** DA/1150/2025

## Development Application Report No. D76/25

**Subject:** 2/98 Fern Street, Randwick (DA/993/2025)

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### Executive Summary

<b>Proposal:</b>	Alterations to an existing residential flat building, including internal reconfigurations and balcony enclosure of Unit 2.
<b>Ward:</b>	North Ward
<b>Applicant:</b>	Solutions Zane
<b>Owner:</b>	Mr P L Salem
<b>Cost of works:</b>	\$46,272.00
<b>Reason for referral:</b>	The development contravenes the development standard for floor space ratio by more than 10%.

### Recommendation

- A. That the RLPP is satisfied that the applicant's written requests to vary the development standard relating to Floor Space Ratio in Clause 4.4 of Randwick Local Environmental Plan 2012 have demonstrated that:
- i. Compliance with the relevant development standard is unnecessary and unreasonable in the circumstances of the case; and
  - ii. There are sufficient environmental planning grounds to justify the contravention of the relevant development standard.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/993/2025 for alterations to an existing residential flat building, including internal reconfigurations and balcony enclosure of Unit 2, at No. 98 Fern Street, Randwick, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  [RLPP Dev Consent Conditions \(med density res\) - DA/993/2025 - 2/98 Fern Street, RANDWICK NSW 2031 - DEV - Randwick City Council](#)

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	Subject Site
	Submissions received
	<p>North</p>
	<b>Locality Plan</b>

N.b. zero (0) submissions were received during the public exhibition period.

**1. Executive summary**

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

The proposal seeks development consent for alterations to an existing residential flat building, including internal reconfigurations and balcony enclosure of Unit 2 to provide additional floor area to the dining area of the apartment.

The key issues associated with the proposal relate to the nil provision of private open space and balcony enclosure.

The proposal is recommended for approval subject to standard conditions.

**2. Site Description and Locality**

The subject site is known as 2/98 Fern Street, Randwick and is legally described as Lot 2 SP 1429. Strata Plan 1429 contains 12 lots. The site is 869.6m<sup>2</sup>, is rectangular in shape and has a 24.384m frontage to Fern Street to the east. The site contains a three storey building with basement garages.

The site adjoins a single storey semi-detached dwelling to the north at no.96 Fern Street and a two storey residential flat building to the south at no. 100 Fern Street. Two single storey dwelling houses are situated to the rear of the subject site at no.37 & 39 Bishops Avenue. Surrounding development



include single and two storey residential dwellings and two to four storey mixed use development with ground floor commercial premises to the south along Clovelly Road.

The site falls approximately 1m from the front to the rear.

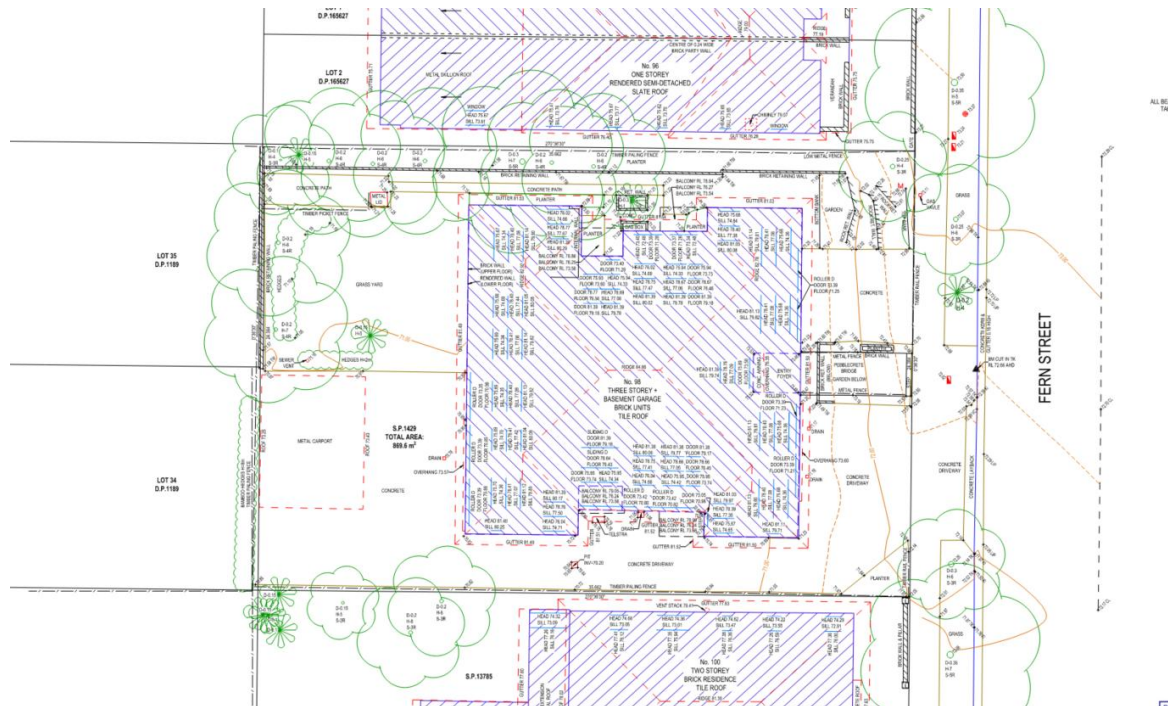


Figure 1: Land Survey (Source: Sydney Surveyors)



Figure 2: Subject Site viewed from Fern Street (Source: Council Officer)

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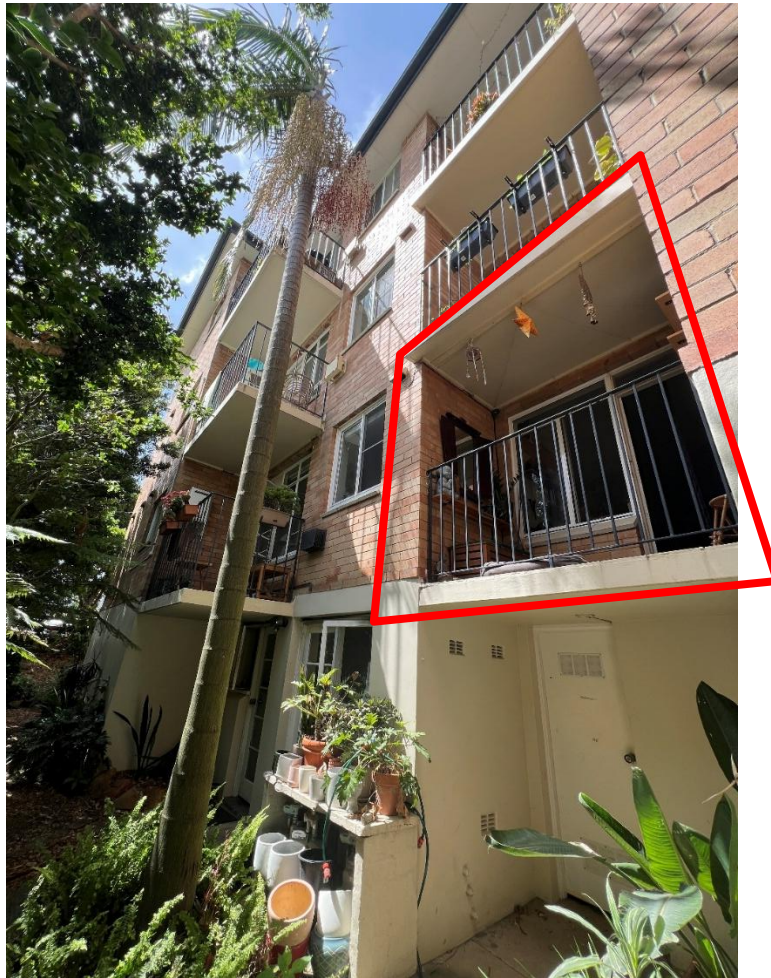


**Figure 3:** Existing balcony viewed from the dining area (Source: Council Officer)



**Figure 4:** Existing balcony viewed from the northern side setback (Source: Council Officer)





**Figure 5:** Existing balcony viewed from the northern side setback (*Source: Council Officer*)

### 3. Relevant history

- BA/985/1964 was approved on 20 October 1964 for RFB 12 units.

### 4. Proposal

The proposal seeks development consent for alterations to an existing residential flat building, including internal reconfigurations and balcony enclosure of Unit 2 (Variation to FSR), specifically:

- Demolition of existing wall, door and window to balcony.
- Installation of sliding doors with fly screen and reinstatement of existing balustrade at the edge of the balcony.
- Internal alterations to the existing kitchen, dining area and Bed 1.
- Reconfigurations of the existing bathroom to introduce double vanity and showerhead.

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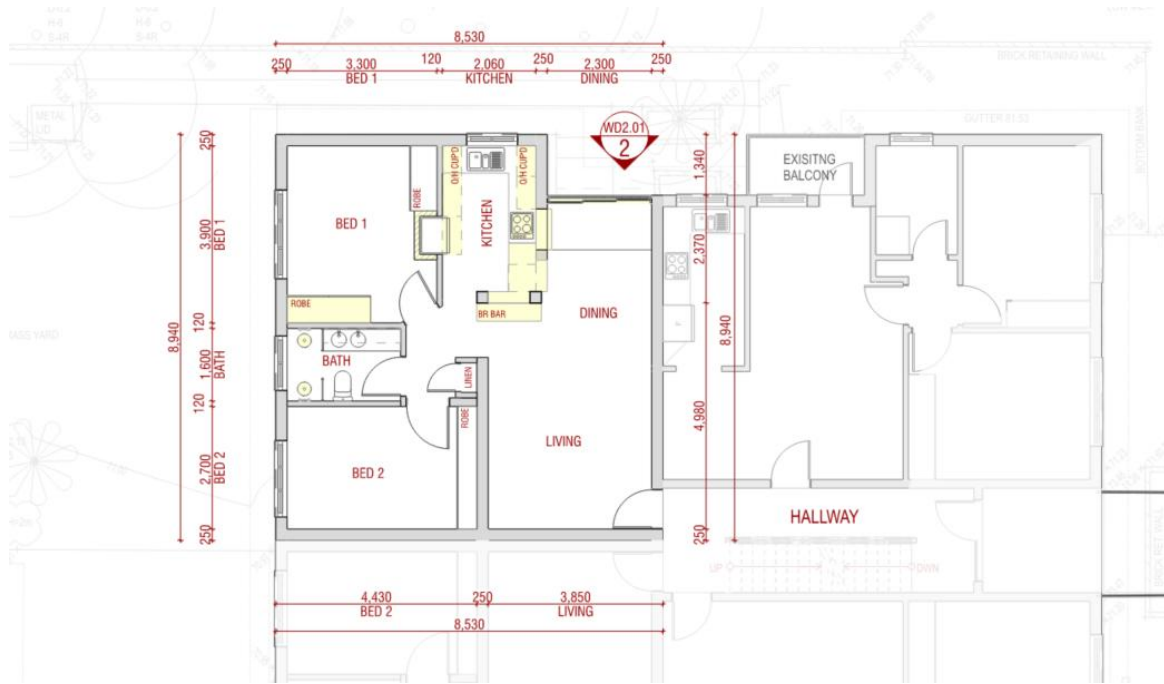


Figure 6: Proposed Floor Plan (Source: Maya Sternberg Architects)

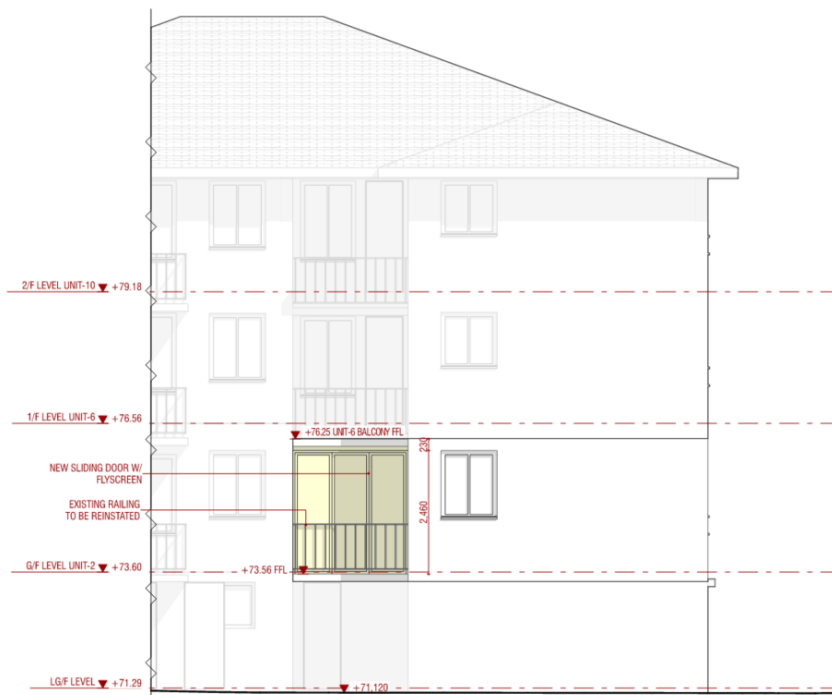


Figure 7: Proposed Unit 2 - North Elevation (Source: Maya Sternberg Architects)



**Figure 8:** Proposed North Elevation (Source: Maya Sternberg Architects)



**Figure 9:** Proposed 3D Perspective (Source: Maya Sternberg Architects)

**5. Notification**

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

**6. Relevant Environment Planning Instruments**

**6.1. SEPP (Housing) 2021**

The proposal is for the enclosure of an existing balcony and internal alterations to Unit 2 only.

Given the minor nature of the works that are contained within the existing building envelope, the proposed development is not considered to constitute the substantial redevelopment or substantial refurbishment of the existing building. Therefore, Chapter 4 of this SEPP is not applicable in this instance.

Notwithstanding, the proposed alterations shall provide better amenity for occupants and would be consistent with the design quality principals set out in Schedule 1 of the SEPP, provided the rooms are utilised for their intended purpose of creating additional area to the dining area.

**6.2. SEPP (Biodiversity and Conservation) 2021**

Chapter 2 of the SEPP applies to the proposal and subject site. The aims of this Chapter are:

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

The proposed development does not involve the removal of any vegetation (including any trees). As such, the proposal achieves the relevant objectives and provisions under Chapter 2.

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

Chapter 4 - Remediation of Land

The subject site has been used for residential purposes since 1965 and the proposed nature of works are not considered to alter the suitability for the site for this residential purposes.

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

The proposed development has a cost of works that is less than the \$50,000.00 threshold for BASIX affected development and as such the SEPP is not applicable in this instance.

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

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

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1 / 652.2sqm	0.92:1 / 799.8sqm  N.B. Proposed additional GFA = 3.06sqm	No, refer to discussion of Clause 4.6



### 6.5.1. Clause 4.6 - Exceptions to development standards

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

## 7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	0.75:1 652.2sqm	0.92:1 799.8sqm  N.B. Proposed additional GFA = 3.06sqm	147.6sqm	22.6%

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Applicant's written justification demonstrates that this objective is satisfied by noting that the building works relate to enclosure of an existing balcony within the northern side setback and does not involve changes to the building footprint or the existing streetscape. In this regard, the proposed development will remain compatible with the existing and desired future character of the locality.

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

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

*The end presentation of the northern façade will remain well articulated through varying windows and door openings, balustrading and materiality changes to various levels.*

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

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

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

The Applicant's written justification demonstrates that this objective is satisfied by noting that the scale of development will not result in detrimental impacts to the adjacent sites or public domain including visual privacy, solar access and visual impacts. The proposal has no impact upon views either to or from the subject premises or the adjoining sites.

Assessing officer's comment: The applicant's written request has adequately demonstrated that the objectives of the FSR development standard are achieved. It is further noted that the existing building was constructed under a previous planning framework, including older LEP and DCP controls, and currently achieves an FSR of 0.916:1, which exceeds the maximum permissible FSR under the current planning controls.

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

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

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

- *The materials and finishes used in the proposal will complement those of the existing development and will remain compatible with the streetscape and adjoining developments. Materials will be recycled where possible and will incorporate robust and energy efficient materials in the construction.*
- *The non-compliant component will not cause unreasonable adverse amenity impacts including those relating to height, bulk and scale, visual and acoustic privacy and solar access will remain entirely consistent with the existing conditions.*
- *The enclosure of the non-compliant component (balcony) will facilitate an improved internal amenity for the occupants of the renovated unit.*
- *The intensity of the development is commensurate with the capacity of the existing and planned infrastructure within the locality.*
- *The proposed development will remain consistent with the desired future character of the locality and will sit well within the varied architectural typologies present, ensuring a harmonious integration with surrounding developments.*

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

**Conclusion**

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

**8. Development control plans and policies**

**8.1. Randwick Comprehensive DCP 2013**

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

In the assessment of the proposed development, the provisions, requirements and controls under the DCP were considered. The proposed development involves changes to the existing layout and infill of a balcony that are wholly contained within the current building footprint and therefore, do not result in any changes in terms of building height, site coverage, landscaped (deep soil/permeable surface) areas and setbacks.

The controls for private open space and balconies have been considered as a part of the assessment and have been further discussed in the Key Issues section below.

The resultant in-fill of the balcony contributes to changes in the presentation and expression of the building – however, the overall design is considered appropriate and ties-in with the remainder of the residential flat building. Notably, the external elements proposed to change are situated on the northern elevation and will not be highly visible nor presentable to the public domain. An evaluation of potential visual bulk, privacy, overshadowing and view loss impacts has determined that any impacts of this nature generated by the proposal are minimal and reasonable.

**9. Environmental Assessment**

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

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013.
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	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.



Section 4.15 'Matters for Consideration'	Comments
environmental impacts on the natural and built environment and social and economic impacts in the locality	The proposed development is consistent with the dominant residential character in the locality.  The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions have been received in relation to the subject application.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

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### 9.1. Discussion of key issues

#### Nil provision of private open space

Part C2, Section 2.3.1 of the Randwick DCP 2013 requires that each dwelling be provided with private open space directly accessible from its living area, in the form of a balcony or courtyard, with a minimum area of 8m<sup>2</sup> and a minimum dimension of 2m.

The proposal includes the enclosure of the existing balcony of Unit 2 to create additional internal dining space. The proposed enclosure would therefore result in a nil provision of private open space for this unit.

It is noted that the existing balcony has a minimum width of less than 2m and an overall area of approximately 3m<sup>2</sup>, which does not comply with the minimum private open space requirements in either DCP or ADG.

The revised design incorporates full height glazed sliding doors and fly screens extending to the balcony edge, maintaining natural ventilation and sunlight penetration to the living area. The design outcome is considered to provide improved internal amenity for occupants by increasing the usability of the internal living area in an operable wintergarden typology.

Furthermore, the development includes communal open space at the rear of the site, which is appropriately landscaped and enclosed with adequate fencing to ensure privacy. This space provides a functional outdoor recreation area that compensates for the loss of the private balcony.

Having regard to the site's existing built form, the constraints of the original design, and the availability of communal open space, the proposal is considered to satisfy the underlying objective of the control — *“to provide useful areas of private and communal open space for outdoor living and recreation to serve the needs of residents and enhance their quality of life.”* Accordingly, the variation to the private open space control is supported.

#### Enclosure of balconies

Section 4.8, Part C2 of the DCP 2013 states:

*‘The piece meal enclosure of balconies or terraces on existing residential flat buildings will not generally be supported unless an overall scheme for the building is implemented using similar materials or materials which will harmonise with the existing building façade’.*

The proposal seeks to enclose the existing balcony with aluminium sliding doors and reinstated balustrading. The proposed materials are compatible with the existing finishes and architectural

form of the building façade and will be subject to further refinement through conditions requiring detailed specifications prior to the issue of a Construction Certificate. The balcony enclosure is located on the north elevation, substantially inset between the front and rear building alignments, and is not readily visible from the street or the public domain (refer to Figures 10-11). As such, the proposal is consistent with the architectural character of the building (noting the predominantly transparent design approach recessed behind the retained balcony balustrade) and will not detract from the existing streetscape.

Whilst it is acknowledged that the subject application represents the first balcony enclosure within the building, the proposed design, materials and finishes are complementary to the existing architectural form and take into account the potential for future balcony enclosures to achieve a cohesive building appearance in the generally minimalist materiality adopted to improve the amenity of Unit 2.

The proposal retains a functional private open space area through the revised arrangement of operable glazed sliding doors. In this regard, the proposal satisfies the objectives of Section 4.8 of Part C2 of the DCP and is therefore supported.



Location of the Unit 2 Balcony – not visible from the northern side setback in the front due to its inset location

**Figure 10:** Northern side balconies of the building viewed from the northern side setback in the front, Unit 2 balcony is not visible due to its inset location (Source: Council Officer)





**Figure 11:** Northern elevation of the building viewed from the public domain – only the top floor balconies are visible, balconies on the lower levels are substantially screened by existing vegetation and the roof from of No. 96 Fern Street (*Source: Council Officer*)

## 10. Conclusion

That the application to alterations to an existing residential flat building, including internal reconfigurations and balcony enclosure of Unit 2 be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal has demonstrated a satisfactory outcome under Clause 4.6 of the RLEP 2012.
- The proposal is consistent with the specific objectives of the R3 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.

**Appendix 1: Applicant's written request seeking to justify the contravention of the development standard**

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LIAISON – LAND USE APPRAISALS – EXEMPT AND COMPLYING DEVELOPMENT CHECKS – STATEMENTS OF ENVIRONMENTAL EFFECTS – ENVIRONMENTAL IMPACT STATEMENTS – PLANNING PROPOSALS – L5.fjf AND & ENVIRONMENT COURT REPRESENTATION

**Clause 4.6 Request for Contravention of the Development Standard to Maximum FSR under Clause 4.4(2) of the Randwick Local Environmental Plan 2012**

In relation to

Minor Alterations and Balcony Enclosure to the Existing Residential Flat Building

at

SP 1429 Unit 2/No. 98 Fern Street

Randwick

Prepared for

**Mr. Phillip Salem**

September 2025

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

**APPLICANT:** Mr. Phillip Salem  
**ADDRESS:** SP 1429 Unit 2/No. 98 Fern Street  
**PROPOSAL:** Minor Alterations and Balcony Enclosure  
 to the Existing Residential Flat Building

**DEVELOPMENT STANDARD:**  
 Maximum Floor Space Ratio (FSR) under Clause 4.4(2) of the RLEP.

**INTRODUCTION**

This submission is a Request for Contravention of the above Development Standard in relation to proposed minor alterations and balcony enclosure to the existing residential flat building at SP 1429 Unit 2/No. 98 Fern Street, Randwick, on the basis that:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and;
2. There are sufficient environmental planning grounds to justify contravening the development standard and;
3. The proposal achieves the objectives of Clause 4.6 of the RLEP of providing an appropriate degree of flexibility in applying certain development standards to particular development and achieves better outcomes for and from development by allowing flexibility in particular circumstances.

**The development standard to which the request relates**

Clause 4.4(2) states:

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

The corresponding mapping imposes a maximum FSR of 0.75:1 in respect of the subject site.

**The objectives of the development standard**

The objectives of the development standard, as stipulated under Clause 4.4 of the RLEP, are:

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

**The nature of the departure from the development standard**

The subject site has a total site area of 869.60m<sup>2</sup>, allowing for a permissible gross floor area of 652.20m<sup>2</sup>.

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The proposed development will result in a total gross floor area 799.80m<sup>2</sup>, equating to a floor space ratio of 0.919:1, thus resulting in a total departure of 147.6m<sup>2</sup>, or 22.63%, from the development standard.

The validation of the above figures is demonstrated in the image below:



Figure 1: Calculations Plan demonstrating FSR calculations of the proposed development (Source: Architectural drawings)

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

Compliance with the maximum allowable floor space ratio is unreasonable and unnecessary in the circumstances for the following reasons:

- The current configuration of the residential flat building on the site has a total gross floor area of 796.74m<sup>2</sup>, equating to 0.916:1, which far exceeds the maximum allowable FSR in its existing condition.
- The proposed development will result in an additional 3.06m<sup>2</sup> of gross floor area only, representing a negligible increase of 0.38% from that of the existing condition.
- Moreover, the increase in gross floor area on this occasion is a result of the enclosure of the existing balcony area, which is wholly contained within the existing building envelope, resulting in a strict change of definition to gross floor area from what was otherwise floorplate excluded from the FSR calculation.
- As such, despite an increase in gross floor area, the proposed development will not result in any increase to the existing building envelope or footprint
- Having regard to the advantageous location of the proposed works, being along the northern side façade and inset well behind the front and rear façade alignments, the additional floor area will not be readily visible from surrounding public domain or adjoining properties, with the exception of the single storey dwelling at No. 96 Fern Street. In this regard, by way of adequate side boundary setbacks which do not extend beyond the alignment of the existing building, the visual privacy interface between the Occupants of unit 2 and those of that dwelling will similar and acceptable.

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The acceptable impact is demonstrated in the street elevation which shows that the balcony is not even visible:



4 East Elevation  
1:200

Figure 2: East elevation showing that the proposed enclosure will not be visible



Plate 1: View of front elevation showing existing vegetation further obscuring view from the public domain

- The visual bulk and scale of the end development will remain commensurate with that existing and will have a negligible impact on the streetscape.
- Notwithstanding the strict numerical non-compliance with the maximum allowable FSR, the proposed development, inclusive thereof, achieves the objectives of the FSR development standard in that:
  - Due to the recessed nature of the existing balcony to be enclosed, the proposal will not result in any additional building mass and the size and scale of the development will remain commensurate with the existing configuration.
  - As such, the end development will remain entirely compatible with the existing and desired future character of the locality.



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- The end presentation of the northern façade will remain well articulated through varying windows and door openings, balustrading and materiality changes to various levels.
- It will not result in any adverse heritage impacts.
- It will not result in any adverse amenity impact to or from adjoining developments, with visual and acoustic privacy, solar access and overshadowing remaining consistent the existing conditions.
- Council has a documented history of applying a flexible approach to the application of development standards as per the allowances under Clause 4.6, in appropriate circumstances.

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

For the reasons outlined above, the objectives of the Floor Space Ratio Standard, in this instance, are achieved and the request for contravention is entirely justified and worthy of support on this occasion.

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

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

**Comment**

The underlying objectives are relevant and achieved on this occasion, notwithstanding the strict numerical non-compliance with the standard.

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

**Comment**

In this instance, the underlying objectives or purposes would be defeated or thwarted if compliance was required, as the proposed departure represents an opportunity to improve internal amenity, without adversely impacting on the amenity of surrounding residents or the public domain.

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

**Comment**

The abovementioned standard has not been abandoned or destroyed by the Council's own actions.

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



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**Comment**

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

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

**The environmental grounds which justify contravening the development standard**

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

- The materials and finishes used in the proposal will complement those of the existing development and will remain compatible with the streetscape and adjoining developments. Materials will be recycled where possible and will incorporate robust and energy efficient materials in the construction.
- The non-compliant component will not cause unreasonable adverse amenity impacts including those relating to height, bulk and scale, visual and acoustic privacy and solar access will remain entirely consistent with the existing conditions.
- The enclosure of the non-compliant component (balcony) will facilitate an improved internal amenity for the occupants of the renovated unit.
- The intensity of the development is commensurate with the capacity of the existing and planned infrastructure within the locality.
- The proposed development will remain consistent with the desired future character of the locality and will sit well within the varied architectural typologies present, ensuring a harmonious integration with surrounding developments.

Having due regard to the *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, it is affirmed that the above environmental planning grounds which justify contravention of the standard in this instance, are not general propositions. They are unique circumstances of the proposed development in the context of the building on the subject site.

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

Despite the non-compliance with the standard, the proposed development, inclusive of the non-compliant component, achieves compliance with the object of the standard and general compliance with other DCP controls applicable to this type of development. The sustainable impact on the surrounding amenity has been documented in this request.

The proposed development in its current form will contribute to the desired future character of this established residential area, which is well located with respect to parks, community infrastructure and local shopping centres.

**Consistency with Clause 4.6 of the RLEP**

The objectives of Clause 4.6 are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

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

Departure from the standard on this occasion (whilst not required to) will achieve a better outcome for and from the proposed development by way of consistency with the objectives of the Floor Space Ratio Standard and the acceptable environmental impacts associated with the departure from the standard, have been demonstrated on this occasion.

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

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**Responsible officer:** Ivy Zhang, Senior Environmental Planning Officer

**File Reference:** DA/993/2025

D76/25

**Draft Development Consent Conditions  
(Medium Density Residential)**



D76/25

<b>Folder /DA No:</b>	DA/993/2025
<b>Property:</b>	2/98 Fern Street, RANDWICK NSW 2031
<b>Proposal:</b>	Alterations to an existing residential flat building, including internal reconfigurations and balcony enclosure of Unit 2 (Variation to FSR).
<b>Recommendation:</b>	Approval

**GENERAL CONDITIONS**

Condition

1. **Approved plans and documentation**

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Proposed Floor Plan WD0.05, Issue A	Maya Sternberg Architects	24 July 2025	18 September 2025
Elevations WD0.06, Issue A	Maya Sternberg Architects	24 July 2025	18 September 2025
GF Unit 2 – Demolition Plan WD0.08, Issue A	Maya Sternberg Architects	24 July 2025	18 September 2025
Proposed GF Unit 2 Plan WD1.01, Issue A	Maya Sternberg Architects	24 July 2025	18 September 2025
Unit 2 North Elevation WD1.02, Issue A	Maya Sternberg Architects	24 July 2025	18 September 2025
Kitchen / Dining Enlarged Plan WD1.03, Issue A	Maya Sternberg Architects	24 July 2025	18 September 2025
Typical Section 1 WD1.04, Issue A	Maya Sternberg Architects	24 July 2025	18 September 2025
Bedroom & Bathroom Enlarged Plan WD1.05, Issue A	Maya Sternberg Architects	24 July 2025	18 September 2025

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

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

## BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition
<p>2. <b>Consent Requirements</b> The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
<p>3. <b>External Colours, Materials &amp; Finishes</b> The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing development to maintain the integrity and amenity of the building.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
<p>4. <b>Security Deposits</b> The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> <li>• \$1,000.00 - Damage / Civil Works Security Deposit</li> </ul> <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the 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>
<p>5. <b>Sydney Water</b> All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> <li>• Building plan approvals</li> <li>• Connection and disconnection approvals</li> <li>• Diagrams</li> <li>• Trade waste approvals</li> </ul>



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Condition

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- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ in online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

Condition Reason: To ensure the development satisfies Sydney Water requirements.

6. **Building Code of Australia**

In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 69 of the *Environmental Planning and Assessment Regulation 2021*, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).

Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.

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

7. **Excavation, Earthworks and Support of Adjoining Land**

A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:

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

The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the Principal Certifier.

Condition Reason: To ensure adjoining land is adequately supported.

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**BEFORE BUILDING WORK COMMENCES**

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Condition

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8. **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)

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Condition

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.

9. **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.

10. **Construction Noise & Vibration Management Plan**

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

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

- (a) The *Construction Noise & Vibration Management Plan* must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority *Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline* (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.
- (b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.

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Condition

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- (c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.
- (d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.
- A copy of the Construction Noise & Vibration Management Plan and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.
- (e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.

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

11. **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.

12. **Public Liability**

The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the

## Condition

Principal Certifier and Council.

Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.

**DURING BUILDING WORK**

## Condition

13. **Site Signage**

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

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

The sign must be—

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

This section does not apply in relation to—

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

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

14. **Restriction on Working Hours**

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

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

*An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety)*



	Condition
	<p>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.</p> <p>Condition reason: To protect the amenity of the surrounding area.</p>
15.	<p><b>Noise &amp; Vibration</b></p> <p>Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies, in accordance with the <i>Construction Noise &amp; Vibration Management Plan</i>, prepared for the development and as specified in the conditions of consent.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
16.	<p><b>Public Safety &amp; Site Management</b></p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ol style="list-style-type: none"><li>Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.</li><li>Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.</li><li>Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.</li><li>The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.</li><li>Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.</li><li>During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.</li><li>Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</li></ol> <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>

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Condition

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

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

17. **Dust Control**

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

*Dust control measures and practices may include:*

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

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

18. **Building Encroachments**

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

Condition Reason: To ensure no encroachment onto public land and to protect Council land.

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**BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**


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Condition

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19. **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.

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Condition

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20. **Fire Safety Certificate**

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

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

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

21. **Public Infrastructure**

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 protect Council's infrastructure and assets from damage.

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**OCCUPATION AND ONGOING USE**

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Condition

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22. **Fire Safety Statement**

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

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

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

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

23. **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.

## DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition
<p>24. <b>Demolition Work</b></p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <p>a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.</p> <p>b) The Demolition Work Plan must include the following details (as applicable):</p> <ul style="list-style-type: none"> <li>• The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor</li> <li>• Details of hazardous materials in the building (including materials containing asbestos)</li> <li>• Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)</li> <li>• Measures and processes to be implemented to ensure the health &amp; safety of workers and community</li> <li>• Measures to be implemented to minimise any airborne dust and asbestos</li> <li>• Methods and location of disposal of any hazardous materials (including asbestos)</li> <li>• Other measures to be implemented to ensure public health and safety</li> <li>• Date the demolition works will commence/finish.</li> </ul> <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.</p> <p><i>Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m<sup>2</sup> of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a> in the Building &amp; Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

## DURING DEMOLITION WORK

Condition
<p>25. <b>Demolition Work and Removal of Asbestos Materials</b></p> <p>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 <i>demolition work plan</i>, which shall be maintained</p>



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Condition

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on site and a copy is to be provided to the Principal Certifier and Council.

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

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),
- Asbestos waste must be disposed of in accordance with the *Protection of the Environment Operations Act 1997* and relevant Regulations
- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",
- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works,
- Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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

Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.

D76/25



## Development Application Report No. D77/25

**Subject:** 15 & 17 Strachan Street, Kingsford (DA/724/2025)

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### Executive Summary

<b>Proposal:</b>	Demolition of existing buildings/structures and tree removal, amalgamation of two (2) lots, construction of a 6-storey residential flat building, with a communal roof terrace, containing 21 apartments (with four (4) apartments allocated as affordable housing for 15 years) and two basement levels containing 20 car parking spaces, Strata subdivision, associated ancillary and landscaping works.
<b>Ward:</b>	West Ward
<b>Applicant:</b>	Advent Property Pty Ltd
<b>Owner:</b>	Advent 15 Pty Ltd
<b>Cost of works:</b>	\$12,189,977.00
<b>Reason for referral:</b>	The development is subject to the Apartment Design Guide as the building is 3 or more storeys and contains at least 4 dwellings.

### Recommendation

That the RLPP grants development consent under Section 4.16(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/724/2025 for the *demolition of existing buildings/structures and tree removal, amalgamation of two (2) lots, construction of a 6-storey residential flat building, with a communal roof terrace, containing 21 apartments (with four (4) apartments allocated as affordable housing for 15 years) and two basement levels containing 20 car parking spaces, Strata subdivision, associated ancillary and landscaping works* at No. 15 & 17 Strachan Street, Kingsford, subject to the deferred development consent conditions attached to the assessment report.

### Attachment/s:

-  [RLPP Dev Consent Conditions \(med density res\) - DA/724/2025 - 15 & 17 Strachan Street, KINGSFORD NSW 2032 - DEV - Randwick City Council](#)

D77/25



**1. Executive summary**

The application is referred to the Randwick Local Planning Panel (RLPP) as the development is subject to the Apartment Design Guide as the building is 3 or more storeys and contains at least 4 dwellings.

The proposal seeks development consent for *demolition of existing buildings/structures and tree removal, amalgamation of two (2) lots, construction of a 6-storey residential flat building, with a communal roof terrace, containing 21 apartments (with four (4) apartments allocated as affordable housing for 15 years) and two basement levels containing 20 car parking spaces, Strata subdivision, associated ancillary and landscaping works.*

The key issues associated with the proposal relate to:

- The Side Setbacks/ Building Separation
- The rear setback/ building separation
- The Desired Future Character of the Precinct under the SEPP (Housing) 2021.
- Visual Privacy.
- Visitor carparking spaces

The proposal is recommended for approval subject to non-standard deferred commencement conditions that require the strata subdivision plans and a fire safety report to be provided to the consent authority prior to the consent being made operational.



After a review of the original plans and documentation, a request for further information was issued to the applicant on 29 September 2025. Detailing changes to be made to the proposal. These changes were related to:

1. Rear and side setbacks
2. Visual Privacy
3. Setback of the basement and replacement with a deep soil zone
4. Floor Space Ratio calculations
5. Natural light for south facing units
6. Social interaction and Communal Open Space
7. Articulation to the side facades.
8. Acoustic Report
9. Development Engineering changes required for waste
10. Nomination of a community housing provider
11. Ensuring all bedrooms have a minimum area of 9m<sup>2</sup>
12. Response to submissions
13. Response to DEAP comments

On 08 October 2025, a meeting was held with the Applicant at Council's Offices to discuss the RFI and the proposed changes to be made by the applicant. At the meeting, the applicant broadly agreed to address items 2 – 13 in the RFI but did not agree with the rear and side setback changes in item 1.

Following the meeting, the applicant submitted concept plans on 27 October 2025. These were reviewed and final comments Council's requirements were provided to the applicant. On 07 November, the amended landscape and architectural plans were received by assessment staff. This assessment report is based upon the plans received 07 November and other supporting documentation and plans received 14 November 2025.

The detailed justification for the side and rear setback variations have been provided by the applicant and are considered in the assessment report.

## **2. Site Description and Locality**

The subject site is known as 15-17 Strachan Street, Kingsford and is legally described as Lots 1 and 2 in DP 901002. The sites are being amalgamated and therefore the combined site area is 886m<sup>2</sup>, which is mostly regular in shape, with a splayed boundary at the rear. The site has a 20.12m frontage to Strachan Street to the North and a 20.21m rear frontage to Strachan Lane. The eastern side boundary is 43.08m and the western side boundary is 45.035m.

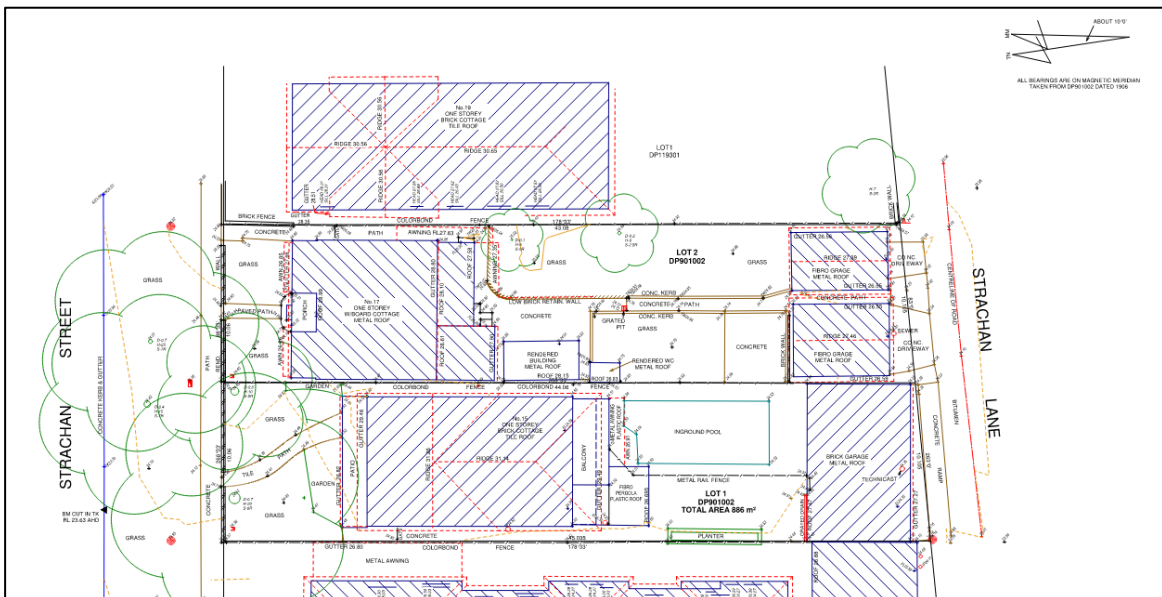
The site contains two dwellings (15 and 17 Strachan Street). The dwelling at 15 Strachan Street has an inground swimming pool, a large rear garage and a very significant and large gum tree on the frontage. The property at 17 Strachan Street is a detached (dilapidated) dwelling, which has two fibro garages at the rear.

D77125



A. Figure 1: Aerial Imagery of 15 - 17 Strachan Street, Kingsford (Source: NearMap 2025)

The site slopes approximately 0.2m downwards from the frontage on Strachan Street (north) to the rear on Strachan Lane (south). There is a cross fall along the frontage from east (high point) to west (low point) of 0.38m. The rear laneway boundary portion of the site is generally flat.



B. Figure 2: Survey Plan of 15 and 17 Strachan Street, Kingsford (Source: Applicant)





**C.** Figure 3: Existing dwelling at 17 Strachan Street, Kingsford (Source: Council)



**D.** Figure 4: Existing building at 15 Strachan Street (Source: Council)



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E. **Figure 5:** Rear Garden of 15 Strachan Street (Source: Realestate.com.au)



F. **Figure 6:** Existing garages to the rear lane at 17 Strachan Street (Strachan Lane) (Source: Council)





G. **Figure 7:** View from rear garden of 17 Strachan Street towards 19 Strachan Street (Source: Council)



H. **Figure 8:** View from 17 Strachan Street towards 13 Strachan Street (Across 15) (Source: Council)



D77/25



I. **Figure 9:** Large Gum tree located on 15 Strachan Street (Source: Council)

Neighbouring development includes:

North

Across Strachan Street to the North are the following low rise residential flat buildings:

- 2A, 2B and 2 – 4 Strachan Street.





J. **Figure 10:** Northern Oblique view of development to the north of the development site

East

Located to the east of the development site are single storey dwelling houses, being:

- 19 and 21 Strachan Street



K. **Figure 11:** 19 and 21 Strachan Street, Kingsford (Source: Google Maps)

- 67, 69 and 71 Houston Road.
  - o 67 is furthest to the right, 71 is furthest to the left.



D77/25



L. **Figure 12:** 67, 69, & 71 Houston Road (Source: Google Maps 2021)

South

Located to the rear, across Strachan Lane to the South is 16 – 20 See Street. These properties are shown below, along with images of their associated rear laneway garage structures.



M. **Figure 13:** 16 See Street, Kingsford (Source: Realestate.com.au)





N. **Figure 14:** 18 - 20 See Street, Kingsford (Source: Google Maps)



O. **Figure 15:** Garages of See Street Properties, which front Strachan Lane (Source: Google Maps)

West

Directly to the west is 13 Strachan Street, a two storey block of flats, approved as a 2 storey multi-unit housing development containing 3 townhouses and associated car parking for 4 vehicles.

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P. **Figure 16:** Neighbouring property 13 Strachan Street (Source: Council)

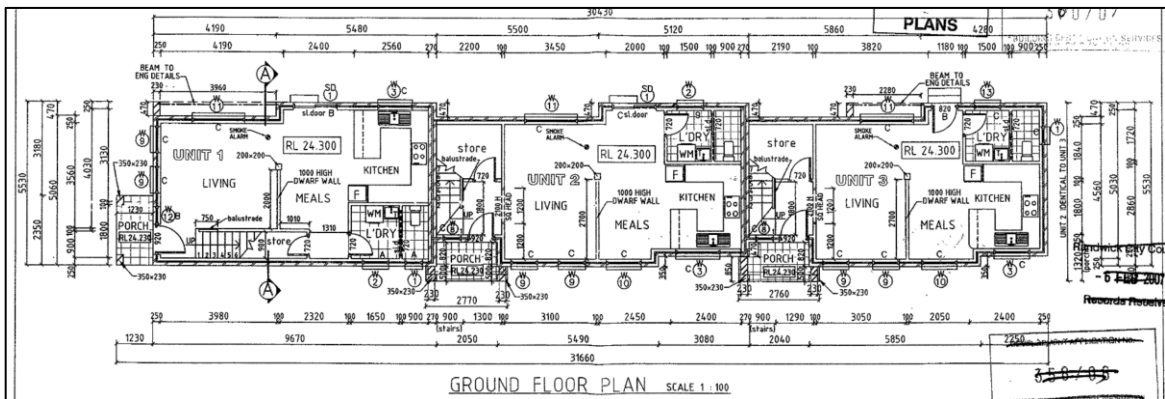


Q. **Figure 17:** Photo of the development from 2009 (Source: Realestate.com.au)

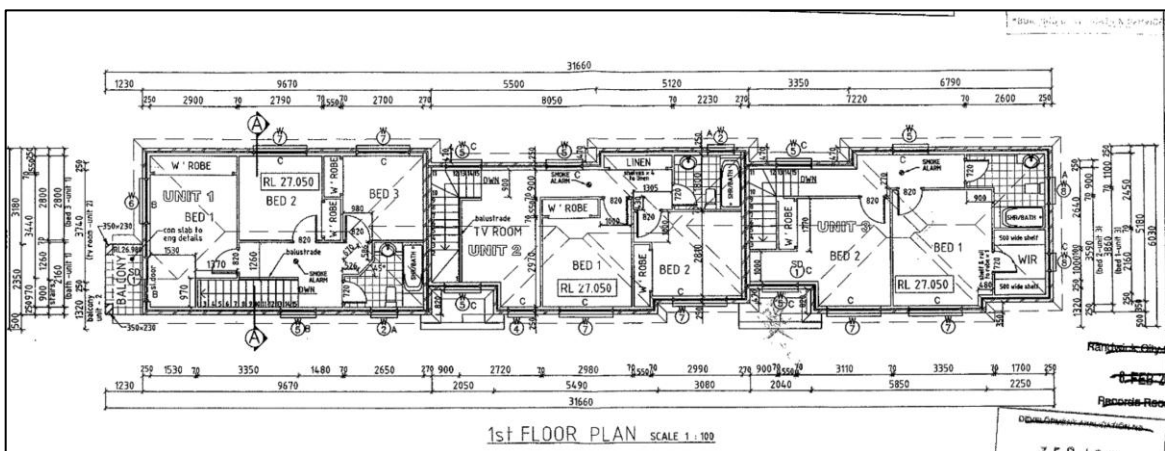




R. Figure 18: Space along the eastern facade of 13 Strachan Street (Source: Council)



S. Figure 19: Approved Ground Floor Plan (Source: DA/300/2007)



T. Figure 20: Approved First Floor Plan (Source: DA/300/2007)

### 3. Relevant history

DA/240/2020 – Approved on 28 June 2021 and surrendered on 14 July 2025 for *Demolition of existing structures and construction of a 3 storey boarding house comprising 31 boarding rooms, manager's room, communal living and communal open space, basement parking with access from Strachan Lane, landscaping and associated works*

### 4. Proposal

The proposal seeks development consent for the demolition of existing buildings/structures and tree removal, amalgamation of two (2) lots, construction of a 6-storey residential flat building, with a communal roof terrace, containing 21 apartments (with four (4) apartments allocated as affordable housing for 15 years) and two basement levels containing 20 car parking spaces, Strata subdivision, associated ancillary and landscaping work.

Specifically, the proposal is seeking consent for:

#### Basement (lower level)

- 8 car parking spaces
- Motorbike space
- 6 bicycle spaces
- Storage areas for units
- 2 x Fire Stairs, Lift
- Domestic water pump room.

#### Basement (upper level)

- Accessed from the rear laneway via a ramp
- 12 car parking spaces (including three which are accessible)
- 6 bicycle parking spaces
- Storage for various units
- 2 x fire stairs, lift.
- Bin room and bulky waste storage.

#### Ground Floor

- 3 x 2-bedroom units
  - o Each unit is provided with a living area/dining kitchen area, bedrooms, laundry, bathroom internal storage area and private open space that are generally accessed from living areas.
- Fire pump room and MSB/Comms Room.
- Landscaping and communal seating at the entrance to the internal building.
- Lift core and stairwells including fire escape.

#### Levels 1 – 3

- 4 x 2-bedroom units on each level
  - o Each unit is provided with a living/dining and kitchen area, bedrooms, laundry, bathroom internal storage area and a balcony that are accessed from living areas.
- Service cupboard and lobby on each level
- Fire stairs and lift on each level
- Level 1 has significant landscaping around the exterior of the built form.

#### Levels 4 – 5

- 2 x 1-bedroom units on each level to the south, balconies to the rear
- 1 x 3-bedroom unit on each level to the north, balcony to the front
- Service cupboard and lobby on each level
- Fire stairs and lift on each level

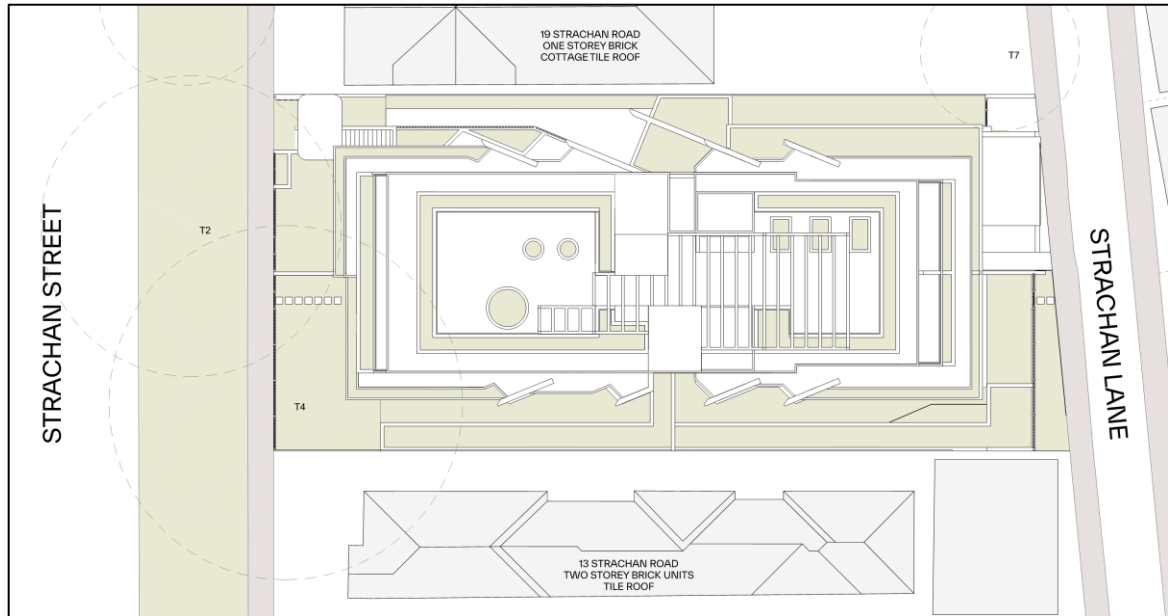
#### Roof Terrace

- Large communal open space area including seating and a pergola.



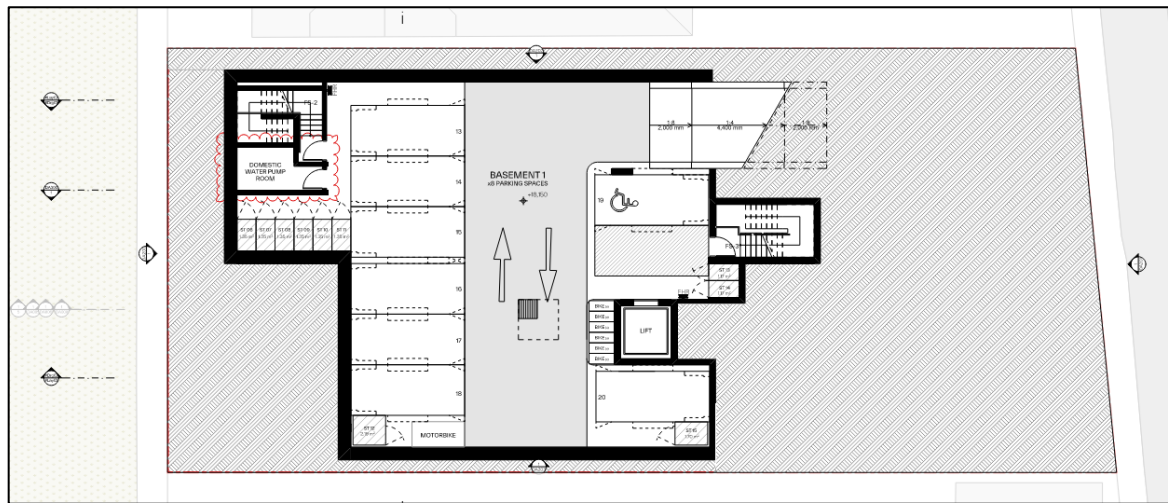
Landscaping and exterior

- Vehicular access from the laneway
- Main pedestrian access from Strachan Street along the eastern side of the site
- Courtyard private open spaces for the ground floor units



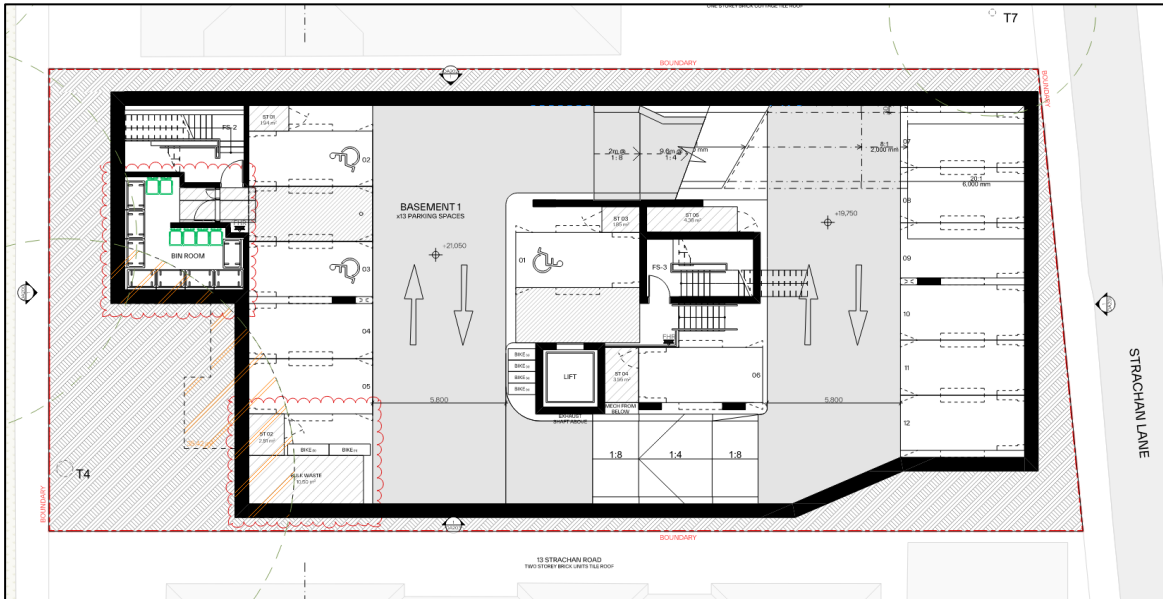
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U. **Figure 21:** Site Plan for 15 - 17 Strachan Street (Source: Applicant)

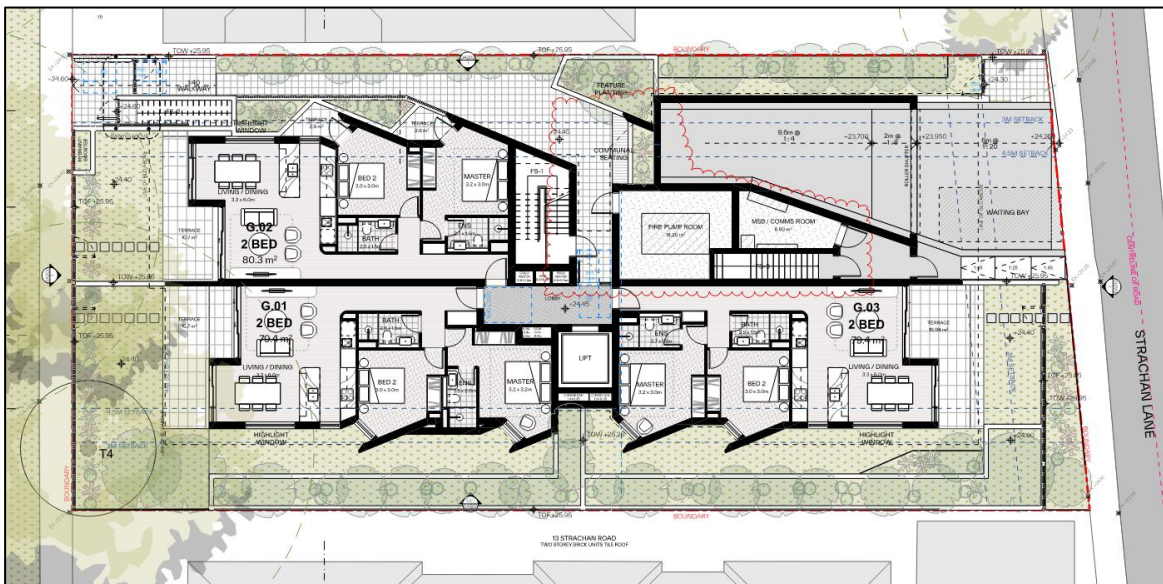


V. **Figure 22:** Lower Basement Level for 15 - 17 Strachan Street (Source: Applicant)

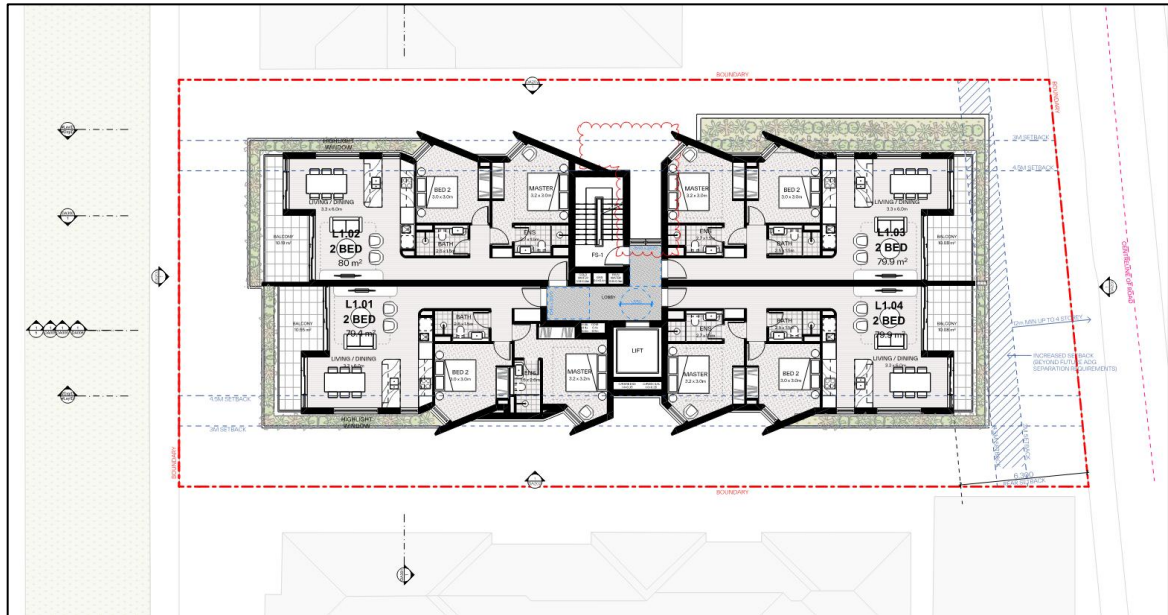
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**W.** Figure 23: Upper Basement Plan for 15 - 17 Strachan Street (Source: Applicant)



**X.** Figure 24: Ground Floor Plan for 15 - 17 Strachan Street (Source: Applicant)



Y. **Figure 25:** Level 1 Floor Plan for 15 – 17 Strachan Street (Source: Applicant)



Z. **Figure 26:** Levels 2 and 3 Floor Plans for 15 - 17 Strachan Street (Source: Applicant)



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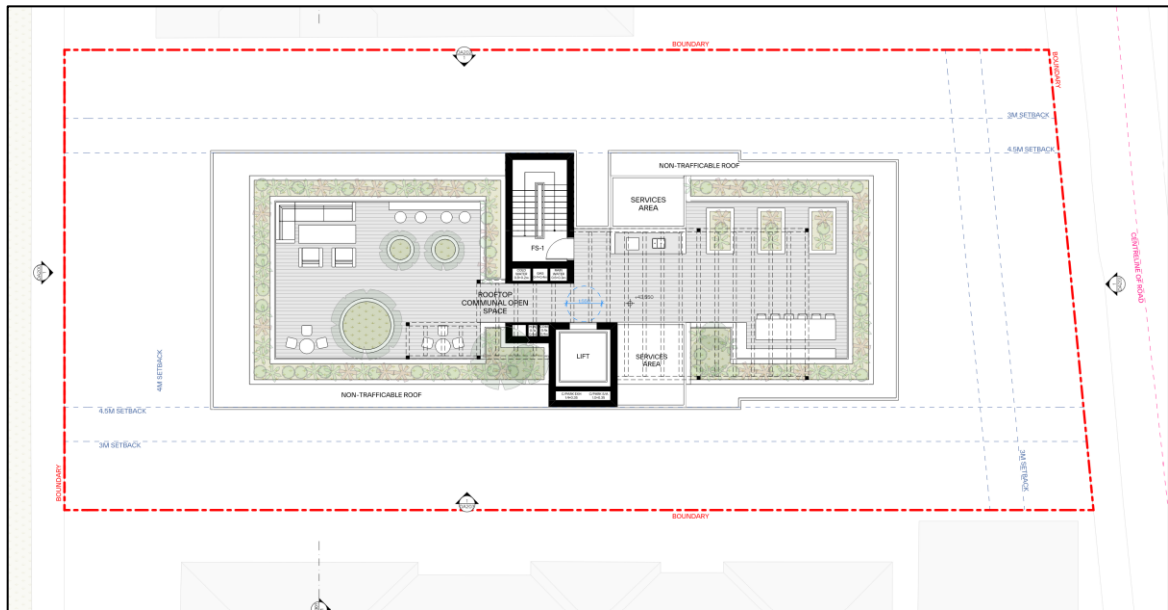


AA. **Figure 27:** Floor Plan for Levels 4 (Source: Applicant)



BB. **Figure 28:** Floor Plan for Level 5 and 6 (Source: Applicant)





**CC.** Figure 29: Roof Terrace Plan for 15 - 17 Strachan Street (Source: Applicant)



**DD.** Figure 30: Northern (Strachan Street) Elevation for 15 - 17 Strachan Street (Source: Applicant)

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**EE.** Figure 31: Rear (Strachan Lane) Elevation for 15 - 17 Strachan Street (Source: Applicant)

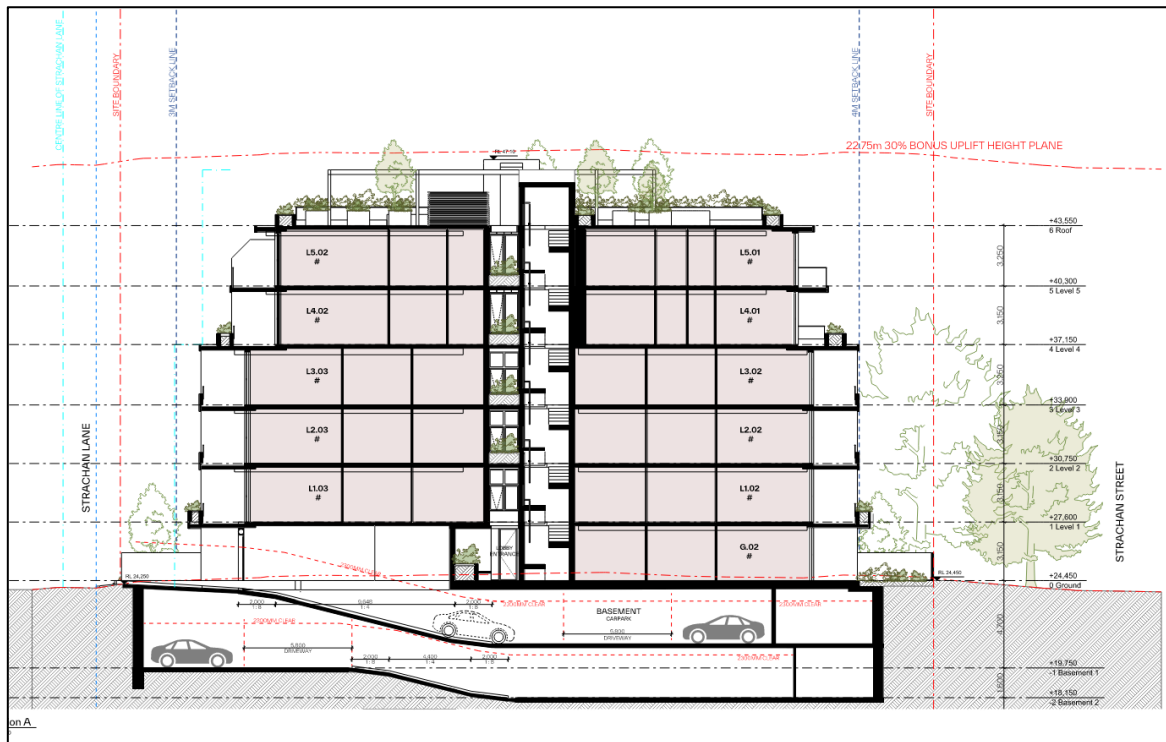


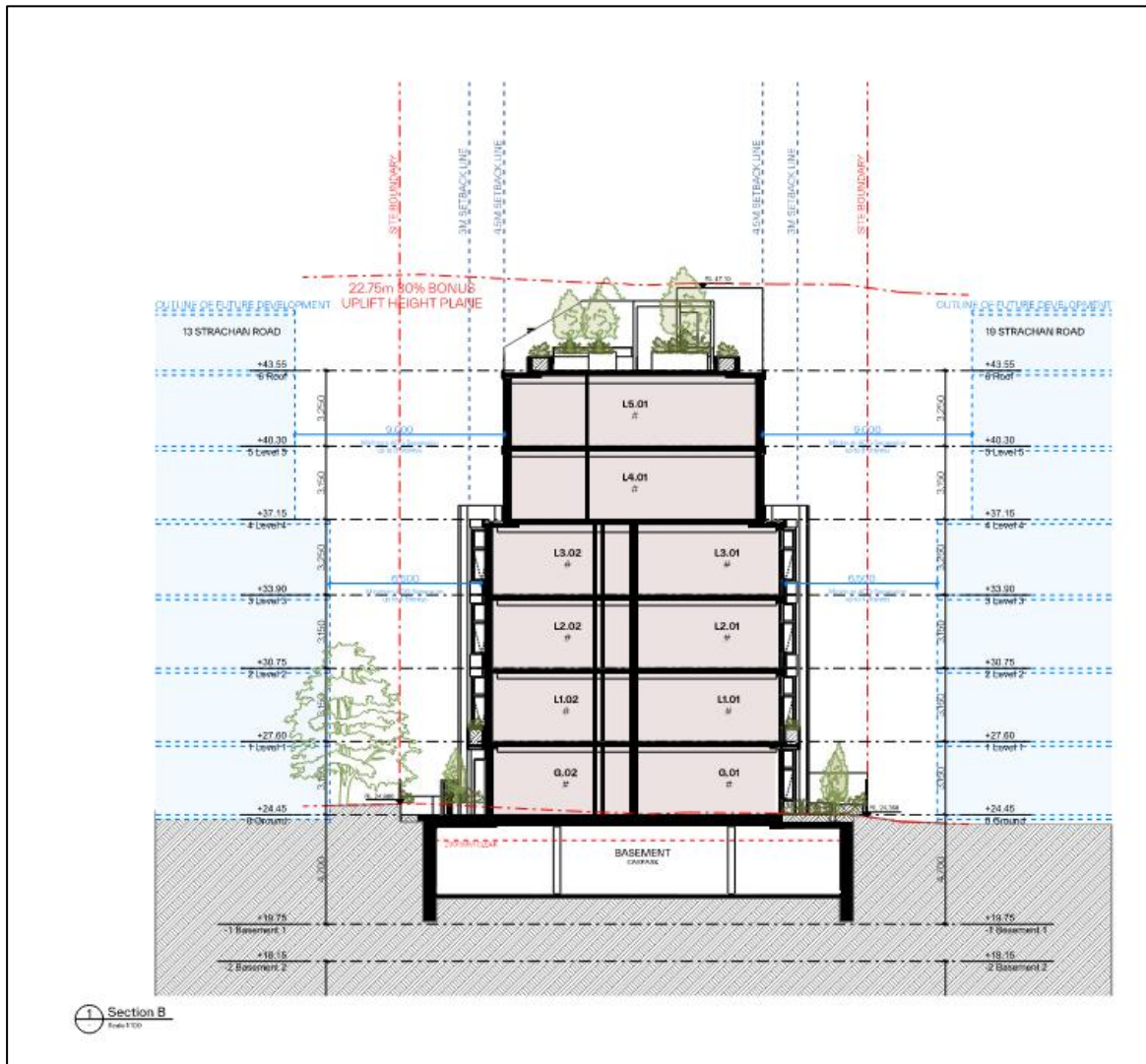
Figure 1: Section A for 15 - 17 Strachan Street (Source: Applicant)



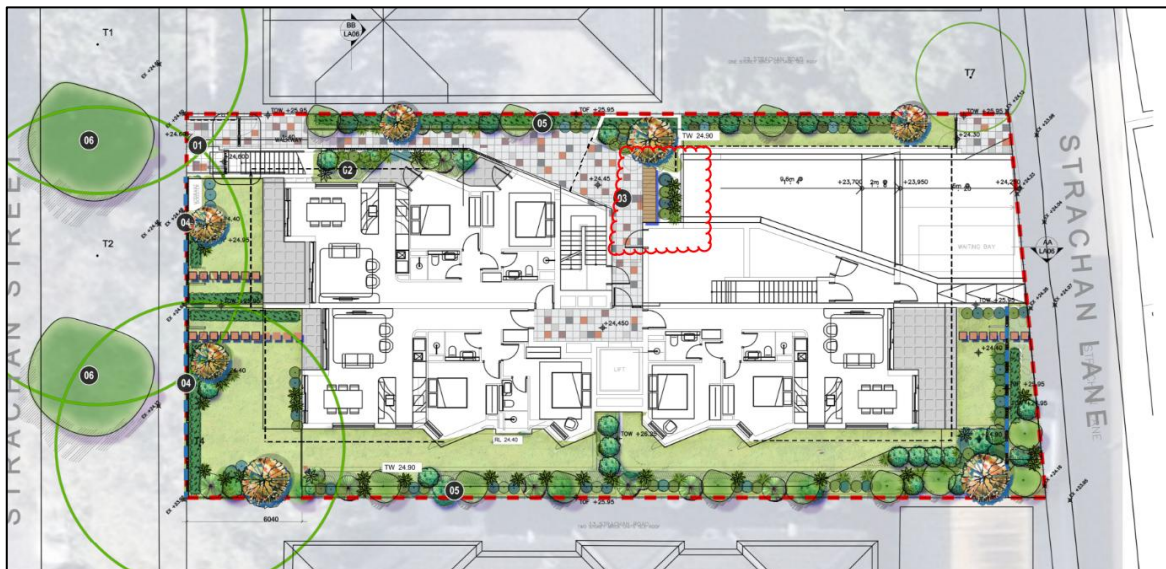
Figure 33: Eastern Elevation for 15 - 17 Strachan Street (Source: Applicant)



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**FF.** Figure 34: Section B for 15-17 Strachan Street (Source: Applicant)



**GG.**

**HH.** Figure 35: Ground Floor Landscape Plan for 15-17 Strachan Street (Source: Applicant)





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II. **Figure 36:** Roof Top Communal Open Space (Source: Applicant)

**5. Notification**

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy.

Amended plans were received, however, the application was not renotified to the public, because the impacts of the proposal were deemed lesser than the original proposal in line with Council’s Community Engagement Strategy. The following submissions were received as a result of the notification process:

- Address not provided.

Issue	Comment
<p>The street does not have enough parking.</p> <p>The impact of parked vehicles during construction.</p>	<p>The proposal includes 20 car parking spaces, which exceeds the minimum requirement.</p> <p>Conditions of consent for a construction traffic management plan have been included to address these concerns.</p>
<p>Noise and building dust during construction</p>	<p>Construction Management Plan conditions including noise and building dust have been included.</p> <p>A complaints register is also a condition of consent.</p>
<p>Overshadowing</p>	<p>The site has a northern aspect to the front, which is a desirable aspect. The applicant has provided shadow diagrams and demonstrated that the development complies with the overshadowing requirements.</p>

Issue	Comment
No other six storey developments in the area.	It is recognised that this is the first development of this scale in the block. A thorough assessment of the desired future character has been conducted in the key issues section of this report.

- 61 Houston Road, Kingsford

Issue	Comment
<p>Parking on Strachan Street is an issue, where will construction workers park?</p> <p>Where will concrete and other supply trucks park?</p>	<p>A construction traffic management plan is a condition of the approval, this will need to be reviewed and signed off by Council prior to the commencement of any works.</p> <p>This plan will detail where the concrete and other supply trucks will park and site access arrangements.</p>
<p>Traffic has increased on Houston Road since the Light Rail.</p> <p>The carrying capacity of the roads is not enough.</p>	<p>The proximity to the town centre and the light rail is part of the justification that the area is located within the Low Mid Rise uplift area. This is State Government Policy that has enabled the uplift afforded to the site.</p>

- No address provided

Issue	Comment
<p>Unreasonable and inconsistent with the surrounding environment.</p> <p>No other 6-7 storey buildings in the area.</p>	<p>The development is the first of the proposed size in the block. A detailed assessment of its consistency with the desired future character is contained in the key issues section of this report.</p>
<p>Privacy – windows facing over buildings and backyards.</p>	<p>Amendments were required to the side facing windows to create pop-outs, which face towards the front of the site.</p> <p>Side facing living room windows have been changed to highlight windows.</p> <p>Sightline diagrams were provided and utilised in the assessment of the rear balconies. Refer to detailed assessment below.</p>
<p>Waste Management – Strachan Street is not appropriate and placement in the rear laneway will block private access.</p>	<p>The waste collection has been moved to Strachan Lane, as per the development engineering comments.</p>

- 20 See Street, Kingsford

Issue	Comment
<p>Privacy to bedroom and courtyard, which both face Strachan Lane.</p>	<p>The applicant provided line of sight diagrams, including for 20 See Street, which have been considered in the key issues section below.</p> <p>The rear setback, building separation and visual privacy is considered acceptable as outlined in the below assessment.</p>
<p>Additional traffic and congestion on the laneway.</p>	<p>The development is providing sufficient parking. The parking and access have been reviewed and is supported by councils' Development Engineer.</p>
<p>Out of character.</p>	<p>The development is the first of the proposed size in the block. A detailed assessment of its consistency with the desired future character is contained in the key issues section of this report.</p>

- Unknown Address

Issue	Comment
<p>Building separation – visual privacy building separation requirements under the ADG.</p> <p>Control requires 12m separation for up to 4 stories and 18m from 5-8 stories.</p>	<p>The proposal was sent to the Design Excellence Advisory Panel (independent to Council or the applicant), who commented on the original setbacks and orientation of windows.</p> <p>Due to this, the side facing windows were modified to be saw-tooth style and face towards the front of the development, to better maintaining privacy of eastern and western adjoining properties.</p> <p>The side setbacks and building separation is discussed in detail in the key issues section of this report.</p>
<p>Overshadowing between 9 – 12 and affect courtyard.</p>	<p>There will be additional overshadowing of the courtyards and the built form of 13 Strachan Street between 9 – 12. However, this overshadowing is acceptable with the RDCP (Part C2), noting that the living areas are orientated to the side boundary at ground level, below the common boundary fence. Furthermore, the living areas of the units have dual orientation, meaning that they will receive sunlight through other windows throughout the day.</p> <p>As shown in the photos, this “courtyard” is partially roofed. The courtyard is only 3m wide, enclosed by the built form and the fence.</p>

Issue	Comment
4.5m front setback and the 3m rear setback are inadequate don't meet objective 3F-1.	<p>The 4.5m front setback complies with the building separation requirements and the front setback controls in the Randwick Development Control Plan.</p> <p>The rear setback and building separation have been considered in detail in the key issues section below.</p>
Balconies present overlooking impacts.	The rear balconies overlooking impacts have been carefully reviewed. Line of sight diagrams were provided by the applicant to enable a complete assessment. Refer to detailed consideration below.
Noise impacts caused by the roof terrace.	<p>An acoustic report has been provided, which specifically tested the impacts of the roof terrace on neighbouring properties.</p> <p>This has been reviewed by Council's Environmental Health Officer and suitable conditions have been imposed.</p>
<p>Poor internal amenity</p> <p>Recessed bedroom windows, highlight living room windows and privacy battens are due to inadequate side setback.</p>	<p>The bedroom windows have been reconfigured to face towards the front of the site in a saw tooth fashion.</p> <p>The main orientation of the apartments is to the front and the rear.</p>
<p>Design Excellence.</p> <p>Fails to meet the design excellence clause in the LEP.</p> <p>The proposal is not of a scale or size that is consistent with the anticipated form of development in the locality.</p>	<p>The proposal was sent to the Design Excellence Advisory Panel. The comments are contained in the appendix of this report. The panel recommended changes, which the applicant has incorporated into the design via amended plans.</p> <p>The proposal's scale and size in comparison to neighbouring properties and the desired future character have been considered in the key issues section of this report.</p>

## 6. Relevant Environment Planning Instruments

### 6.1. SEPP (Housing) 2021

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

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

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

#### Design Excellence Advisory Panel (DEAP)

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



The DA was referred to the Design Excellence Advisory Panel for advice concerning the design quality of the development. The panel's advice is contained in the referrals section of this report.

The advice was provided to the applicant and was utilised by Council in a Request for Further Information from the applicant.

The applicant has provided a written response of how the DEAP comments have been addressed in the amended plans. Council considers that these matters have been addressed in a satisfactory manner.

Design Quality Principles

The comments provided by the DEAP (refer to Referrals section of this report) detail how each of the nine quality design principals have been considered in the proposal.

Apartment Design Guide

The table below provides an assessment of the proposal against the relevant design criteria contained in Parts 3 and 4 of the Apartment Design Guide (ADG). In cases where the development does not satisfy the relevant criteria, the design guidance has been used to determine whether the proposal still meets the relevant objectives.

Low- and mid-rise housing and affordable housing bonuses

Chapter 2, Part 2, Division 1 of the Housing SEPP seeks to facilitate the delivery of new in-fill affordable housing to meet the needs of very low-, low- and moderate-income households.

Section 15C (1) details, which development this can be applied to, confirming that Chapter 6 (low and mid-rise development) is able to utilise the affordable housing bonus.

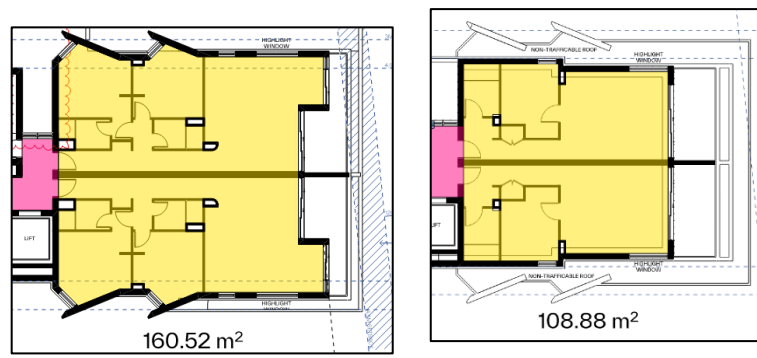
**Section 16 – Affordable Housing requirements for additional floor space ratio**

**16(2) contains the following calculation:**

$$\text{Affordable housing component} = \text{additional floor space ratio (as a percentage)} / 2$$

Proposed is:

- 2 x 2-bedroom units on level 1 → combined area of 160.52m<sup>2</sup>.
- 2 x 1-bedroom units on level 4 → combined area of 108.88m<sup>2</sup>.



JJ. **Figure 37:** FSR of level 1 AFH Units and level 4 units (Source: Applicant)

The total AFH GFA = 269.4m<sup>2</sup>. The overall total GFA is 1727.2m<sup>2</sup>. The percentage of AFH GFA is (269.4/1727.2) \*100 = 15.597%. Doubling this as per the requirements in the Housing SEPP allows for the 30% bonus FSR and Building Height.

## Section 19 outlines the non-discretionary development standards

Requirement	Comment	Compliance
(a) Minimum site area of 450m <sup>2</sup>	The site area is 886m <sup>2</sup>	Yes.
(b) Minimum landscaped area that is the lesser of: (i) 35m <sup>2</sup> per dwelling, or (ii) 30% of the site area	This is defined as <i>a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</i>  30% of the site area is 265.8m <sup>2</sup> .  280.5m <sup>2</sup> has been provided at the ground level and 54m <sup>2</sup> on the roof terrace.	Yes.
c) Deep soil zone on at least 15% of the site area, where: (i) each deep soil zone has minimum dimension of 3m, and (ii) if practicable, at least 65% of the deep soil is located at the rear of the site	As per Section 19 (3) <i>Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.</i>  This is assessed under the ADG in Appendix 2.	N/A
(d) Living rooms and private open space in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter.	As per Section 19 (3) <i>Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.</i>  This is assessed under the ADG in Appendix 2.	N/A
(e) the following number of parking spaces for dwellings used for affordable housing:  (i) for each dwelling containing 1 bedroom – at least 0.4 parking spaces,  (ii) for each dwelling containing 2 bedrooms – at least 0.5 parking spaces,  (iii) for each dwelling containing at least 3 bedrooms, - at least 1 parking space	A total of 4 affordable units or 15% (269.4m <sup>2</sup> ) of total GFA is to be allocated as affordable housing with the following breakdown:  - 2 x 1 bedroom unit (2 x 0.4 = 0.8) - 2 x 2-bedroom unit (2 x 0.5 = 1)  - Total – 1.8 (2) car parking spaces.  Development proposes a total of 2 car parking spaces for affordable units.	Yes.
(f) the following number of parking spaces for dwellings not used for affordable housing –  (i) for each dwelling containing 1 bedroom – at least 0.5 parking spaces,  (ii) for each dwelling	The development proposes a total of 17 'market' units with the following breakdown:  • 2 x 1 bedroom unit (0.5 x 2 = 1) • 13 x 2-bedroom unit (13 x 1 = 13) • 2 x 3-bedroom unit (2 x 1.5 = 3)  Total – 17 car parking spaces	Complies.

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<p>containing 2 bedrooms – at least 1 parking space,</p> <p>(iii) for each dwelling containing at least 3 bedrooms – at least 1.5 parking spaces,</p>	<p>The development provides 20 car parking spaces in total, which exceeds the overall requirement by 1 space, when accounting for the affordable housing parking requirement above of 2.</p>	
<p>(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development</p>	<p>Assessed in appendix 2 against the ADG.</p>	<p>Yes - ADG</p>

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**Section 20 – Design Requirements**

*(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—*

- (a) the desirable elements of the character of the local area, or*
- (b) for precincts undergoing transition—the desired future character of the precinct.*

This matter is addressed in detail in the Key Issues section of this report.

**Section 21 – Must be used for affordable housing for at least 15 years.**

A letter has been supplied by the applicant from Cubic Real Estate (a Community Housing Provider).

31 October 2025

**Randwick City Council  
Planning & Development**

**Management for Affordable Housing Components of Development Project**  
**Address: 15-17 Strachan Street Kingsford ("Project")**  
**Development Application DA/724/2025**  
**Portal Reference PAN-556016**

The draft plan for the Project includes construction of a new eight-storey residential flat building comprising **21 dwellings** with **4 units dedicated to affordable housing** supply. The affordable housing units are planned to be 2 x 2 Bedrooms (on level 1) and 2 x 1 Bedroom (on level 4).

The proposal integrates our feedback to ensure a well-designed and purpose-built affordable housing product that will benefit the local community. The unit mix is thoughtfully incorporated into the overall building design, ensuring residents of affordable housing are fully integrated without risk of discrimination or isolation. The development will contribute to alleviating the ongoing rental crisis to the local community—an essential and much-needed addition given the severe shortage of affordable rentals in the Eastern Suburb.

We have reviewed your draft Development Application (DA) plans for the proposed project. We understand that your application is being assessed under the State Environmental Planning Policy (Housing) 2021. Under the Housing SEPP, the affordable housing component of the development must remain designated as affordable housing for a minimum of 15 years. We confirm our ability to manage these affordable housing units, ensuring compliance with your obligations under the Housing SEPP and have entered into the attached **CHP Management Agreement** with the Developer. Please find **attached** a copy for your perusal. This engagement will span 15 years or until the expiry of the S88B instrument registered on the property title.

Cubic Real Estate is a Registered Community Housing Provider under the National Regulatory System for Community Housing (NRSCH). Our accreditation (**Registration Number R7486190503**) allows us to professionally manage affordable housing developments under SEPP 21. A copy of the **Registration is attached for your perusal**. Our primary goal is to ensure full compliance with the affordable housing requirements set out in the Housing SEPP, as well as to maintain reporting obligations for all approved affordable housing units under this Project.





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**KK. Figure 38:** Letter from the Affordable Housing Provider (Source: Applicant)

Chapter 6 of the Housing SEPP aims to encourage development of low- and mid-rise housing in areas that are well located with regard to goods, services and public transport.

The proposed development is located within the “outer area”, which is land between 400m – 800m of:

- (a) land identified as “Town Centre” on the [Town Centres Map](#), or
- (b) a public entrance to a railway, metro or light rail station listed in Schedule 11, or
- (c) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station.

Part 4 relates to Residential Flat Buildings; Section 176 contains the development standards for the outer area.

Section 180 contains the non-discretionary development standards for RFB’s in R3, as detailed below:

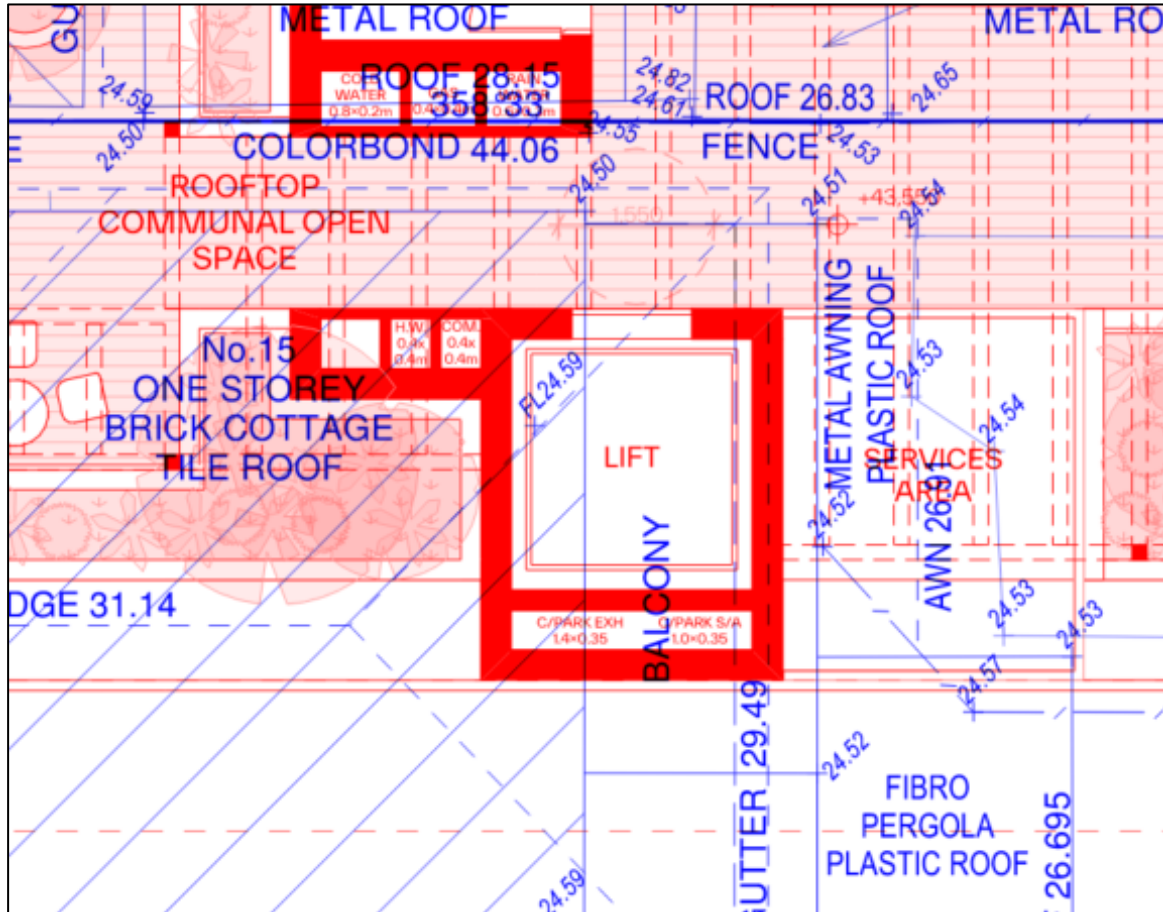
Clause	Development Standard	Proposal	Compliance (Yes/No)
Section 180 (3)(a): Floor space ratio (max)	1.95:1	1.949:1	Yes.
30% bonus under Chapter 2 of the SEPP (Housing) 2021			

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Section 180 (3)(b) Building height (max)	22.75m.	22.71m	Yes.
30% bonus under Chapter 2 of the SEPP (Housing) 2021			

**Building height**

The RL of the Lift is 47.10. The underside of the slab of the existing floor is RL24.39. Therefore, the proposed building height is 22.71m.



**LL. Figure 39:** Overlay of proposed roof plan with the existing survey

**Floor Space Ratio**

Council agrees with the applicant’s submitted Floor Space Ratio calculations, noting that these matters were resolved as a part of the RFI process.

The fire pump room and the communications room have been excluded from the gross floor area on the ground floor. The applicant obtained advice from the engineering consultant to confirm the suitability of the services plant rooms sizes for the required equipment in support of the proposed GFA and FSR compliance.

**Tree Canopy Guide**

Section 177 requires Council to consider the *Tree Canopy Guide for Low and Mid Rise Housing*, published by the Department in February 2025 before granting consent. This has been reviewed by Council’s Landscape Officer in the referral section below.

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

A BASIX certificate has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and the Sustainable Buildings SEPP. The submitted BASIX Certificate includes a BASIX materials index, which calculates the embodied emissions and therefore the consent authority can be satisfied the embodied emissions attributable to the development have been quantified.

### 6.3. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP applies to the proposal and subject site. The aims of this Chapter are:

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

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

### 6.4. SEPP (Resilience and Hazards) 2021

#### Chapter 4 - Remediation of Land

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

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

Council's Environmental Health Team confirmed that a land contamination report was not required prior to determination of the DA. Suitable conditions have been imposed based on the Environmental Health referral.

### 6.5. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	1.949:1	Considered under SEPP (Housing) 2021 - Complies

Cl 4.3: Building height (max)	9.5m	22.71m	Considered under SEPP (Housing) 2021 – Complies
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**As per Section 3.28 of the Environmental Planning and Assessment Act 1979:**

- (1) *In the event of an inconsistency between environmental planning instruments and unless otherwise provided—*
- (a) *there is a general presumption that a State environmental planning policy prevails over a local environmental plan or other instrument made before or after that State environmental planning policy,*
  - (b) *(Repealed)*
  - (c) *the general presumptions of the law as to when an Act prevails over another Act apply to when one kind of environmental planning instrument prevails over another environmental planning instrument of the same kind.*

Therefore, the SEPP (Housing) 2021 prevails over the RLEP 2012 and the higher FSR and Height of Buildings apply.

**Housing Productivity Contribution**

The applicant entered the proposed development for 21 Units into the NSW Planning Portal Contributions Case. Council agrees with the information entered in the Portal. An estimation using the Department's calculator was also ran, which demonstrated the same contribution figure. This has been included in the conditions of consent.

**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 3.

Clause 149 of Chapter 4 of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide (ADG) in relation to matters at (a) to (h) below, and that where there is any inconsistency the provisions within the ADG prevail.

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

In addition, Clause 148(2) of the SEPP states that a development application cannot be refused if it complies (equal to or greater than the recommended minimums) with the prescribed criteria of the Apartment Design Guide in relation to ceiling heights, parking and internal apartment sizes.

Consequently, where the Randwick DCP provides controls in relation to the matters listed in item (1), the assessment has been made against the relevant controls in parts 3 and 4 of the ADG (refer to appendix 2/3) rather than those in the DCP.

**8. Environmental Assessment**



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

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

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**8.1. Discussion of key issues**

Side Setbacks

The proposal includes variations to the RDCP Side Setback Controls of 4m. However, the design satisfies the intent of the objectives of the Apartment Design Guide Part 3F – Visual Privacy and the Randwick DCP 2013 in terms of separation, visual outlook, and landscape quality.

The development is located between established residential buildings and adopts a building footprint that generally maintains a setback greater than 3m to 4.5 m side setback to living areas. Bedroom windows breach the side boundary setback, but these are angled windows that orientate

outlook to the front and rear, along with being secondary (non-living) spaces where internal privacy is also important. Side boundary setbacks are complemented by landscaped buffer zones that include deep soil planting and trees along both the eastern and western boundaries, providing visual softening and privacy screening between buildings. Likewise, landscape planters are provided on level 1 in front of living areas to further soften the built form and enhance visual privacy.

The site's narrow width and urban infill context informed a building design that orients primary living areas and balconies toward Strachan Street (front) and Strachan Lane (rear), consistent with ADG Objective 3F-1, which seeks to minimise overlooking between adjacent dwellings by directing outlook to the street and communal open space rather than to side boundaries. Whilst there are windows along the side boundaries, these have a main outlook orientated to the front and rear, meaning that side windows are mostly used for light and ventilation, rather than outlook. The pop out nature of these windows mean that there is no clear view lines towards neighbouring properties and as such future development on the adjoining sites has not been compromised by the proposal.

The proposed built form incorporates multiple architectural and landscape strategies to maintain visual privacy and mitigate the impact of reduced setbacks:

- **Window Orientation:** Habitable rooms along the side façades are highlight or narrow slot windows positioned above 1.6 m sill height. These windows provide natural light and ventilation while preventing direct lines of sight to neighbouring dwellings, in accordance with DCP Clause 5.3 (i). When a larger window exists, it is within splayed element that orientates outlook to the front, rather than to the side.
- **Splayed Façades and Articulation:** Ground Level to Level 3 includes angled wall planes which orient openings obliquely to boundaries, preventing direct overlooking. This approach is applied to bedrooms. On the ground level, bedroom courtyards are landscaped to increase privacy, along with enhancing overall amenity.
- **Landscaping:** The side setbacks integrate deep soil planting with layered vegetation and shrub screening that reinforces privacy and softens the built form.

Although the proposal includes sections where the setback is marginally less than the 4 m numerical control, the design satisfies the intent of both the ADG and the DCP by achieving:

- Adequate building separation and privacy between adjoining properties through window design and screening;
- Good solar access and ventilation, with dual-aspect apartments oriented to the front and rear boundaries;
- Landscape softening that contributes to visual privacy, acoustic attenuation, and the streetscape character; and
- Fire safety compliance, with side openings designed and constructed to meet BCA fire separation requirements.

The combination of articulated façades, angled windows, use of highlight windows, and substantial landscape buffers ensures that the visual relationship between the proposed building and its neighbours is respectful and consistent with both ADG 3F Visual Privacy and Randwick DCP Section 3.4.2 objectives for amenity, separation, and privacy.

The following windows have been conditioned to have sill heights or obscure glazing to a height of 1.6m.

- Kitchen side facing windows from levels 1 – 3.
- Bedroom windows facing east or west on levels 4 and 5.

The proposed side setbacks represent a contextually appropriate and well-resolved outcome that maintains the desired spatial separation between buildings, ensures privacy, and provides high-quality landscaped edges. The design achieves the objectives of the ADG and DCP notwithstanding

the minor numerical variation and delivers a built form that contributes positively to the evolving medium-density character of Strachan Street.

Rear Setbacks

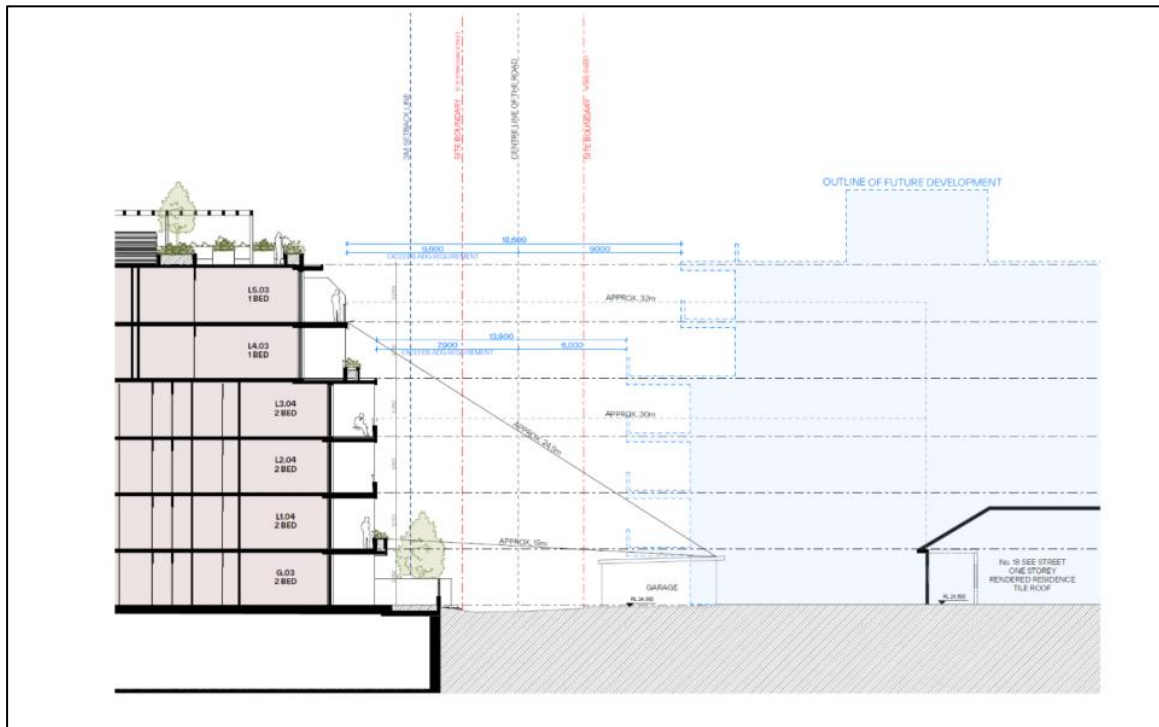
Under Part C2 (Medium Density) RDCP, the rear setback numerical requirement can be varied when allotments have a rear boundary abutting a laneway.

The proposal has used the middle of the laneway to measure the building separation from the rear aspect, as shown below.

Proposed Setback	Separation Future Development opposite Strachan Lane	Compliance
<b>GROUND:</b> 6.7m minimum from the edge of the ground level courtyard	at least 13.3m	<ul style="list-style-type: none"> <li>• Yes, exceeds ADG 12m</li> <li>• Exceeds DCP 6.6m</li> </ul>
<b>LEVEL 1:</b> 7.9m minimum to the inside edge of the balcony landscape planter box.	at least 13.9m	<ul style="list-style-type: none"> <li>• Yes, exceeds ADG 12m</li> <li>• Exceeds DCP 6.6m</li> </ul>
<b>LEVELS 2: 3:</b> 7.9m minimum to the balcony.	at least 13.9m	<ul style="list-style-type: none"> <li>• Yes, exceeds ADG 12m</li> <li>• Exceeds DCP 6.6m</li> </ul>
<b>LEVEL 4:</b> 9.6m minimum to the inside edge of the balcony landscape planter box.	at least 18.6m	<ul style="list-style-type: none"> <li>• Yes, exceeds ADG 12m</li> <li>• Exceeds DCP 6.6m</li> </ul>
<b>LEVEL 5:</b> 9.6m minimum to the inside edge of the balcony landscape planter box.	at least 18.6m	<ul style="list-style-type: none"> <li>• Yes, exceeds ADG 18m</li> <li>• Exceeds DCP 6.6m</li> </ul>
<b>COMMUNAL OPEN SPACE:</b> Beyond 9.6m	at least 25.2m	<ul style="list-style-type: none"> <li>• Yes, exceeds ADG 18m</li> <li>• Exceeds DCP 6.6m</li> </ul>

**Figure 40:** Proposed setbacks and compliance with ADG / RDCP (Source: Applicant)

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MM. **Figure 41:** Diagrammatic representation of rear setbacks compared to existing and potential future development across Strachan Lane (Source: Applicant)

An analysis of the consistency with the rear setback objectives of the RDCP has been conducted below:

DCP Objective	Response / How the Proposal Satisfies the Objective
To define the street edge and establish or maintain a consistent rhythm of street setbacks and front gardens that contributes to the local character.	The rear boundary adjoins Strachan Lane, a public laneway that functions as a secondary street frontage rather than a private rear yard. The proposed setback establishes a clear built edge that reflects the established laneway pattern in the locality, where garages, service entries and small landscaped setbacks address the lane directly. This produces a coherent built rhythm and active interface, improving passive surveillance and public safety. The minor ground-level planter encroachment enhances lane-edge landscaping and visual quality.
To ensure adequate separation between buildings for visual and acoustic privacy, solar access, air circulation and views.	The proposal measures its setback from the centreline of the 6 m-wide laneway, consistent with the Apartment Design Guide (ADG) approach for sites separated by public roads or lanes. This yields an effective minimum 12 m building-to-building separation when both sides redevelop—exceeding ADG requirements. The side boundary setback provides adequate space for outlook, sunlight penetration, and cross-ventilation, while privacy devices and window orientation prevent direct overlooking. The lane’s open width ensures unimpeded light, air and visual separation for both this site and future development opposite.
To reserve contiguous areas for the retention or creation of open space and deep soil planting.	The proposal maintains and enhances landscape opportunities along the site’s side and front boundaries, while the lane interface—by nature—accommodates service and movement functions. Basement edges have been recessed and stair/plant areas adjusted to expand deep-soil zones elsewhere on the site, achieving a balanced landscape outcome. The low planters along the laneway contribute greenery and soften the built edge, fulfilling the intent of this objective without compromising the functional lane interface.

NN. **Figure 42:** Applicant's assessment against the Rear Setback Objectives of the RDCP



Council assessment staff agree that the above justification has adequately demonstrated the satisfaction of the setback objectives in regards of the rear setback.

Consistency with the desired future character of the precinct.

Clause 20 of the Housing SEPP 2021 requires the consent authority to consider whether the design of a residential development is compatible with either the desirable elements of the character of the local area or, in precincts undergoing change, the desired future character of that area.

The subject site at 15–17 Strachan Street, Kingsford sits within a highly accessible urban environment that forms part of the evolving Anzac Parade–Kingsford corridor, one of the key focus areas for low and mid-rise infill housing under the NSW Government’s housing diversity and affordability reforms. This corridor is explicitly identified for incremental intensification in response to its exceptional access to public transport, open space, and educational and commercial opportunities.

The broader locality is characterised by a mix of low-scale detached dwellings, older walk-up flats, and recently approved mid-rise apartment buildings, signalling a clear transition toward a more compact, mixed-density urban form. This evolution aligns with the objectives of the Housing SEPP 2021, which seek to deliver well-designed, diverse, and affordable homes in established areas serviced by high-quality infrastructure.

The site is suited to the transition, due to its proximity to key infrastructure and amenities:

- **Transport:** The site is approximately 250 m from Kingsford Light Rail Stop; and within 800m of the UNSW Anzac Parade Light Rail station, providing direct, frequent services to Central Station and Circular Quay via the CBD, as well as to Randwick and UNSW. Bus routes along Anzac Parade further enhance accessibility to employment and education centres.
- **Education:** The site lies within walking distance of UNSW Sydney, NIDA, and several student colleges, placing it within one of Sydney’s most significant education hubs. This setting generates strong demand for well-located, high-quality housing that supports academic and professional communities.
- **Open Space and Recreation:** The development benefits from close proximity to a variety of open spaces including Kensington Park and the UNSW Village Green, both of which provide high-amenity green spaces and recreational opportunities within walking distance.
- **Centres and Services:** The Kingsford Town Centre, located well within a 400m radius, provides daily shopping, cafés, dining, and community services. Its continuing revitalisation reinforces Kingsford’s role as a local centre supported by medium-density housing and public transport investment.

The proposed development responds to this strategic setting and anticipates the future built form direction for Kingsford, noting the locational context of the site within the LMR and the proximity of the site to the K2K corridor along Anzac Parade. The development’s form, scale, and materiality are compatible with both existing and emerging context, supporting a gradual, cohesive transition to a mid-rise urban character.

Key design responses include:

- **Built Form Evolution:** The proposal expresses a contemporary, mid-rise typology consistent with the scale and intent of the Housing SEPP 2021 reforms. It acts as a logical continuation of the emerging apartment character along the Anzac Parade corridor and provides an appropriate interface to existing low-density dwellings.
- **Architectural Articulation:** The building’s façades are articulated with a diverse and co-ordinated material palette. This provides visual interest and reduces the overall massing to reflect a human scale. This reflects the finer-grain architectural rhythm anticipated under the design quality objectives within Chapter 4, Schedule 9 of the Housing SEPP 2021.

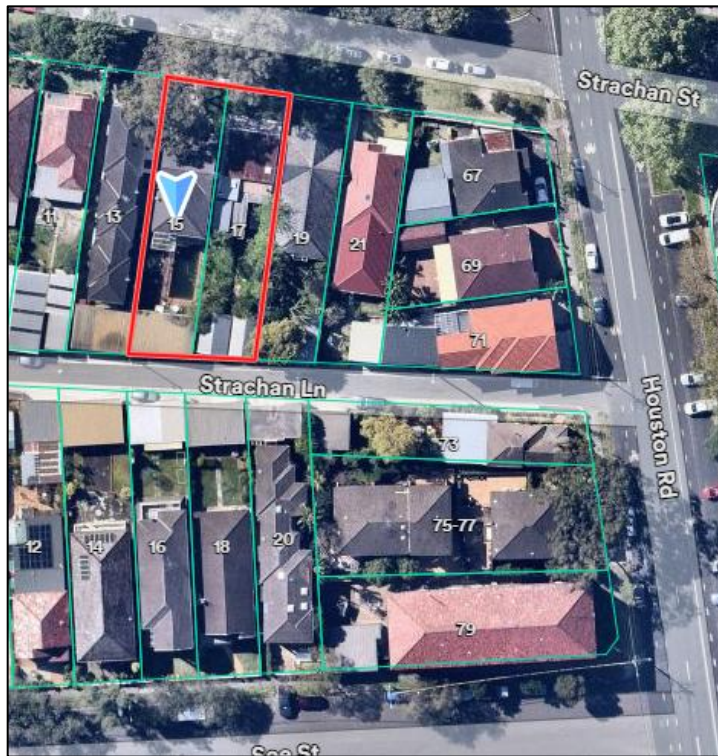
- **Setbacks and Privacy:** Although side setbacks are reduced in parts, they remain sufficient to maintain visual privacy and solar access. The use of highlight windows, angled openings, and landscape buffers ensures compliance with ADG Part 3F – Visual Privacy and provides a soft, green transition to adjoining sites.
- **Landscaping and Green Character:** The proposal incorporates substantial deep soil zones and layered planting along both Strachan Street and Strachan Lane, contributing to a landscaped setting that aligns with the desired green character of future infill development in the precinct.
- **Roof Terrace and Communal Spaces:** The building includes a rooftop communal open space designed to foster social interaction and community cohesion, consistent with ADG and SEPP design quality principles.
- **Housing Diversity and Affordability:** The mix of one, two and three bedroom dwellings enhances local housing diversity, providing for a range of household types, including 15% of the total GFA as affordable housing for 15 years.

The proposal aligns with the desired future character by:

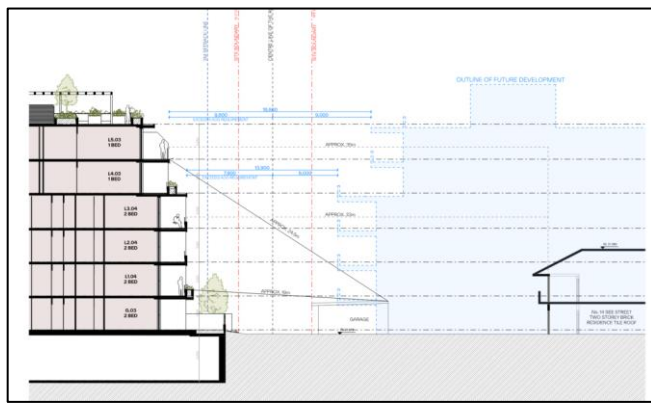
- Reinforcing Kingsford’s evolution from traditional detached housing toward a connected, higher-density residential neighbourhood anchored around sustainable transport and education assets.
- Demonstrating how medium-density development can occur sensitively, through measured height, refined articulation, and landscape integration that respect existing dwellings while anticipating the form and scale of future redevelopment.
- Delivering a transitional building that bridges the existing low-rise streetscape with emerging mid-rise forms along the corridor, setting a positive precedent for the locality’s gradual transformation.

#### Visual Privacy

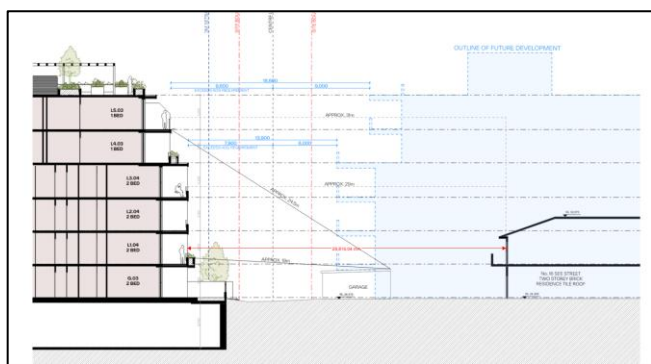
Line of sight diagrams have been provided by the applicant to demonstrate the viewing angles and distances from the rear of the property towards 14, 16, 18, & 20 See Street. This shows both the existing and the potential future impacts. The impacts are considered acceptable and suitably managed, noting the desired future character of the precinct and the separations distances afforded by the rear laneway transition in between neighbouring development.



OO. **Figure 43:** Aerial Imagery of the development site in relation to 14,16, 18, & 20 See Street (Source: NearMap 2025)

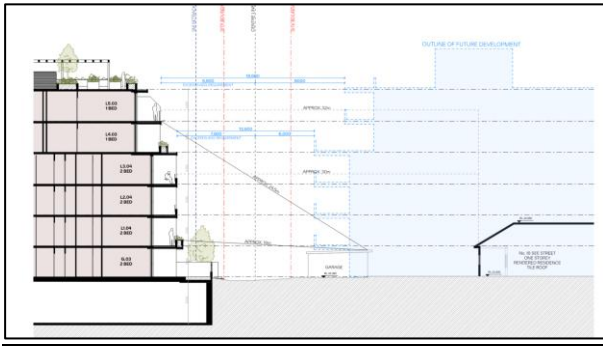


PP. **Figure 44:** Line of sight diagram for proposed development compared to existing development and potential future development of 14 See Street (Source: Applicant)

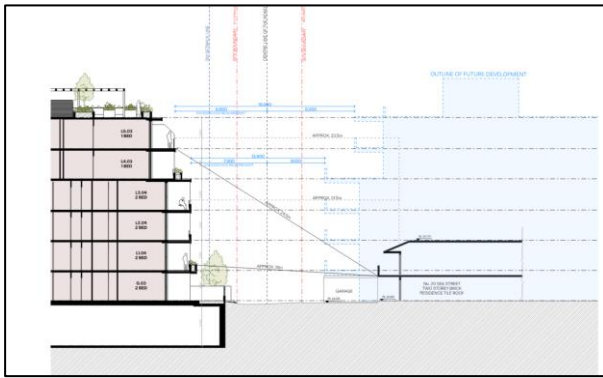


QQ. **Figure 45:** Line of sight diagrams for 16 See St (Source: Applicant)

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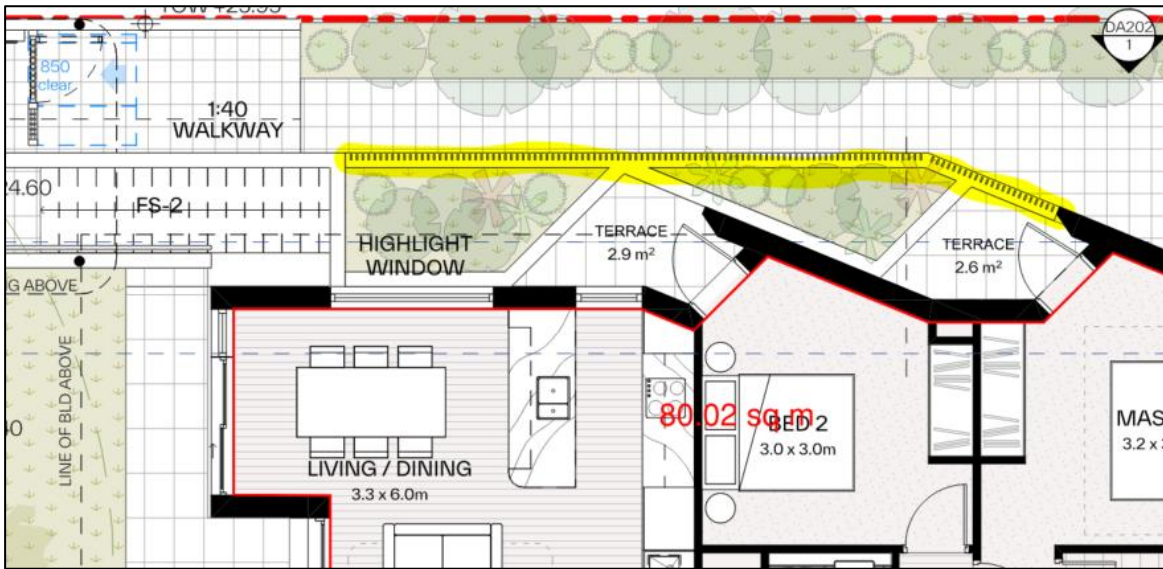


RR. **Figure 46:** Line of sight diagrams for 18 See St (Source: Applicant)



SS. **Figure 47:** Line of sight diagrams for 20 See St (Source: Applicant)

The following highlighted area that forms a part of the building entrance has been conditioned to be a minimum height of 1.6m and no more than 30% open to maintain privacy for the future occupants of these ground floor terraces.



TT. **Figure 48:** Area conditioned to be 1.6m high for privacy

Site Amalgamation

The proposed amalgamation of the site is considered beneficial and appropriate for the development. It results in a 20.12m frontage and a site area of 886m<sup>2</sup>, which is suitable for the proposed RFB and complies with the minimum site area requirements of the SEPP 2021. It is also



noted that previous approval was granted for the amalgamation of the sites (under DA/240/2020 – which has now been surrendered).

The site amalgamation has been conditioned as a part of the development consent.

### Groundwater assessment

Because the proposal was amended to have a second level of basement, Council required that the applicant must provide an updated Geotechnical report that commented on the new extent of excavation. In the original report, it was noted that groundwater was encountered at 5.4m. This is above the new basement level of 6.5m deep.

Relevant conditions requiring a Section 68 approval have been included in the conditions of consent. For reference, the relevant comments from the Geotechnical report have been copied below:

Groundwater was encountered in March 2020, at a depth of 5.4 metres, which is above the new basement depth of 6.5 metres. However, seasonal fluctuations in groundwater level are possible. It should be noted that considerable time has passed since the original measurement of 5.4 metres and there is a possibility that the current water table depth has changed. In this regard, we strongly recommend at least one additional borehole with a standpipe piezometer installed and long-term groundwater monitoring using dataloggers is carried out to confirm the groundwater levels.

Because the excavated car park may extend into the water table it may be necessary to tank the basement. Based on the groundwater level above, we expect this will result in minimal dewatering requirements. Furthermore, based on this groundwater level, we expect the volume of water to be extracted will be less than the threshold requiring a license from WaterNSW. We recommend that after DA approval a further dewatering assessment (i.e. groundwater take assessment) be carried out prior to issuing the construction certificate to determine the annual volume of dewatering in reference to the WaterNSW construction dewatering guidelines. We recommend that further testing of the ground conditions is done after demolition to allow access for rigs.

Since excavations will extend below the water table, it will be necessary to ensure the perimeter support is watertight to prevent water flow from the sides of the excavation. In this regard, a secant pile wall is an appropriate method of support.

The primary issues associated with the excavation within the water table will be controlling the groundwater and providing adequate support to the any adjoining structures/infrastructures. Temporary dewatering will be required to construct the proposed basement.

Uncontrolled dewatering will cause drawdown and ground settlement below adjoining sites; the extent of the drawdown depends upon the depth to which the cut-off system is installed and the pumping operations. We recommend a properly designed dewatering system is adopted which minimises the settlement due to drawdown. The dewatering system should be designed and implemented by a specialist dewatering contractor.

### **UU. Figure 50: Geotechnical Report - Relevant Comments**

The recommendations of this report have been conditioned in the approval.

## **9. Conclusion**

That the application for the *Demolition of existing buildings/structures and tree removal, amalgamation of two (2) lots, construction of a 6-storey residential flat building, with a communal roof terrace, containing 21 apartments (with four (4) apartments allocated as affordable housing for 15 years) and two basement levels containing 20 car parking spaces, Strata subdivision, associated ancillary and landscaping works* be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013, subject to recommended non-standard and standard conditions of consent.
- The proposal is consistent with the objectives contained within the ADG and has satisfied the relevant assessment considerations under the Housing SEPP 2021 for infill affordable housing and Low to Mid Rise (LMR) Development.

- The proposal is consistent with the specific objectives of the R3 zone in that the proposed activity and built form will provide for the housing needs of the community, whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality noting the immediate context of the site within the LMR zone and the Anzac Parade Kensington to Kingsford Planning Strategy Corridor.

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## Appendix 1: Referrals

### 1. Design Excellence Panel Comments

#### Randwick Design Excellence Advisory Panel Final Endorsed Comments



DA INFORMATION	
Application Number	DA/724/2025
Address	15-17 Strachan Street, Kingsford
Meeting Date	25 August 2025
Panel Members	Brian Meyerson (Chair), Alex Koll and Russell Olsson
Report Date	2 September 2025

#### INTRODUCTION

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

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

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

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

#### PANEL COMMENTS

##### 1. Context and Neighbourhood Character

The Subject site is located on the southern side of Strachan Street mid-block between Houston Road and Day Lane. The site enjoys rear lane access via Strachan Lane to the south.

The site is approximately 260m or a 4-minute level stroll from Kingsford light rail station to the east, and a similar distance from Kensington Oval cricket ground. Anzac Parade offers shopping and services within 200m. The University of NSW is within a 9-minute walk and Prince of Wales Hospital a further 1km.

The proposal is for a 6-storey residential flat building containing 21 apartments, including 4 Affordable Housing units and is considered appropriate and a good use of the site.

The proposal has 4 Affordable units – 2 x 1-Bedroom and 2 x 2-Bedroom. The Market units include 2 x 1-Bedroom, 13 x 2-Bedroom and 2 x 3-Bedroom, resulting in a total of 21 Apartments.

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The panel consider the mix, the provision of 4 Affordable units and the higher allocation of 1-Bedroom and 2-Bedroom units to be suitable for this location, given the proximity to the University, the hospital and access to the Light Rail.

The proposal utilises the rear lane to the south for vehicle access to the Basement parking spaces, which is a fortunate and effective use of the site, preserving the northern garden in the front setback area for the private use of the two north facing ground floor apartments, as well as for the pedestrian arrival point to the site, via an east facing front door and lobby.

Having the vehicle access via the southern rear lane allows for the retention of the established street trees along Strachan Street, this assists in retention of street landscape character and amenity.

While there are a number of improvements recommended below in this report, the Panel considers the proposal to be well considered, well planned and a good example of the implementation of the State Mid-rise planning reforms to provide added density in well located, well serviced sites.

## 2. Built Form and Scale

While there is some concern in the interim period when some one and two storey dwellings will find themselves interspersed with 4 to 6 storey developments, the Panel considers the neighbourhood to be well located for midrise development of this nature. The design needs to have deeper consideration of the side facing elevations and windows to deal with privacy and overlooking onto lower rise existing development and towards future mid-rise neighbours.

The design has a relatively small 4m front setback to Strachan Street, established by the pattern of adjoining properties. The applicant has also sought a 3m setback to the rear lane, by not considering the rear setback of around 6m that would usually be required for an RFB. While this is fortunate for the development, the small front and rear setbacks reduce deep-soil landscaping opportunity which would usually be provided on other sites. For this reason, the Panel considers that the provision of deep-soil landscaped space needs to be prioritised. In this regard the panel recommends reduction of the basement footprint within the front and rear setback zones, as well as in parts of the side setback zones. The panel considers the basement design with excavation boundary to boundary to both side boundaries as well as to most of the front and rear setback zones, close to the front and rear boundaries, to be an overdevelopment of the site.

The basement design should therefore be amended to provide for a further half-basement level to provide the required parking numbers but with more deep-soil space to front, side and rear setback zones. The tandem parking Spaces 05 and 07 should be relocated to another basement level, as should the corner parking Spaces 11 and 19. By relocating Spaces 11 and 19 and moving the FS-3 egress away from the side boundary, the north-west and south-west corners of the basement could be freed up for further deep-soil planting.

The current design has the windows to side facing bedrooms recessed into the side facades approximately 600mm. As a result these windows limit outlook directly toward the future mid-rise building that will eventually replace the dwellings on either side. These windows could be better designed to present diagonally toward the street via the use of splayed walls and possible blade screening, to direct outlook more towards either street and not directly toward adjoining sites.

The side setback proposed for the first four storeys is 3.6m and is not compliant with the required 4m side setback, while it is acknowledged that the upper two levels achieve a 4.5m side setback. It could be argued that this exceeds the current DCP control, although it does not comply with the ADG separation guideline. The panel understands that Council's controls have not been amended to deal with the increase in height limits under the LMR reforms, and therefore the DCP is not designed for



buildings of this height. The panel considers that more needs to be done in the design to address this issue. Bedroom windows orientated towards the streets, possible splayed walls and fixed external privacy screens would resolve privacy issues associated with side setbacks.

### 3. Density

The floorspace is calculated by Council to be approximately 32 sqm over the control, as Council includes the bin area at ground floor level. Given that this application is to be assessed under the new LMR uplift it the application should comply.

The number of units and unit mix is supported by the Panel. The proposal provides additional housing density in an appropriate location in response to the policy implemented by the state to create more well-located housing and affordable housing.

### 4. Sustainability

The design has 11 out of 21 units with south facing living areas, and only 10 units with north facing living areas. This has been done most probably for market related reasons, by allocating north frontage to larger apartments to achieve higher selling prices. In addition to this, the decision to not have east and west side facing glazing to the living areas of L4.02 and L5.02 reduces solar access to the south facing units in the south-east corners on level 4 and 5. This could be addressed by providing skylights to the living area of L5.02 and added solar access via skylights to the living area of L5.03.

The roof overhang covering the rear balconies of L5.02 and L5.03 could be open or perforated to permit added winter/spring/autumn solar access to these balconies. These could be glazed for rain exclusion.

Consideration should be given to providing vertical louvres angled towards the street to full height glazed areas on the east and west facades. This would reduce solar heat load on these glazed areas in Summer, Spring and Winter.

The bicycle parking area would benefit from an awning to provide shade and shelter.

### 5. Landscape

The design has a relatively small 4m front setback to Strachan Street, established by the pattern of adjoining properties. The applicant has also sought a 3m setback to the rear lane, by not considering the rear setback of around 6m that would usually be required for an RFB. While this is fortunate for the development, the small front and rear setbacks reduce deep-soil landscaping opportunity which would usually be provided on other sites. For this reason, the Panel considers that the provision of deep-soil landscaped space needs to be prioritised. In this regard the panel recommends reduction of the basement footprint within the front and rear setback zones, as well as in parts of the side setback zones. The panel considers the basement design with excavation boundary to boundary to both side boundaries as well as to most of the front and rear setback zones, close to the front and rear boundaries to be an overdevelopment of the site.

The basement design should therefore be amended to provide for a further half-basement level to provide the required parking numbers but with more deep-soil space to front, side and rear setback zones. The tandem parking Spaces 05 and 07 should be relocated to another basement level, as should the corner parking Spaces 11 and 19. By relocating Spaces 11 and 19 and moving the FS-3 egress away from the side boundary, the north-west and south-west corners of the basement could be freed up for further deep-soil planting.

### 6. Amenity

The apartment layouts are well resolved; the living areas are well planned and will provide good amenity. North facing balconies off living rooms and master bedrooms will provide good amenity.

The provision of full height side facing windows to the Dining rooms of the units on the lower four levels is likely to result in privacy issues for occupants as well as future adjoining development. Consideration should be given to providing vertical louvres angled towards the street, to provide added privacy. This will have the added benefit of providing depth and texture to the side facades.

A further benefit of this would be to reduce solar heat load on these glazed areas in Summer, Spring and Winter.

#### 7. Safety

The pedestrian entry from Strachan Street has good visibility and surveillance from apartments in the development.

Fire egress from the basement and a likely basement re-design will need to be carefully considered.

#### 8. Housing Diversity and Social Interaction

The proposal has a good communal space on the roof, accessed via lift and stairs. The covered part of this area is small and should be enlarged, to provide more usable and sheltered space. The proposal lacks adequate communal space at ground floor level, but the landscaped court on the side of the building near the bicycle storage area could be well used by cyclists, subject to further detailed landscape design.

#### 9. Aesthetics

The use of textured render together with the face-bricks proposed is supported, together with the detail proposed for the entry awning. This detail could extend to an awning shelter for the bike storage area. Due to the shape of the site, the design has large flat elevations presenting to the east and west sides. The detail suggested to the side elevations regarding bedroom and dining room windows will assist in further articulating these facades. The Panel acknowledges the simplicity of the presentation to the street frontages, which will have large glazed areas. These frontages will rely heavily on the landscape quality and size of trees to have a leafy presentation to both streets. Given the reliance on the ability of the landscaping to thrive, the deep-soil areas need to be maximised as recommended above in this report.

### **SUMMARY**

The Panel recommends design changes be made in accordance with the recommendations contained in this report and the amended design will need to be presented at a future DEAP meeting.

2. External referral comments:

2.1. Sydney Water



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19 August 2025

Our reference: N/A

**Joseph Edmonds**  
 Randwick City Council  
[joesph.edmonds@randwick.nsw.gov.au](mailto:joesph.edmonds@randwick.nsw.gov.au)

**RE: Development Application DA/724/2025 at 15 Strachan Street, Kingsford**

Thank you for notifying Sydney Water of DA/724/2025 at 15 Strachan Street, Kingsford, which proposes the demolition of structures, and construction of a residential flat building with basement parking and Strata subdivision. The development will provide 21 dwellings. Sydney Water has reviewed the application based on the information supplied and provides the following Sydney Water requirements to assist in understanding the servicing needs of the proposed development.

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

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

If you require any further information, please contact the Growth Analytics Team at [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au).

Yours sincerely,

**Growth Analytics Team**  
 Growth and Development, Water and Environment Services  
 Sydney Water, 1 Smith Street, Parramatta NSW 2150  
 Sydney Water Corporation ABN 49 776 225 038  
 2 Parramatta Square, 1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124  
 Telephone 13 20 92 [sydneywater.com.au](http://sydneywater.com.au)



## Attachment 1 – Recommended Development Conditions

Prior to the issue of an Occupation/Subdivision Certificate:

### Section 73 Compliance Certificate

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

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

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

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

### Building Plan Approval (including Tree Planting Guidelines)

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

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

### Tree Planting

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

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

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

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





## 2.2. Ausgrid

TELEPHONE: 13 13 65  
EMAIL: [development@ausgrid.com.au](mailto:development@ausgrid.com.au)



24-28 Campbell St  
Sydney NSW 2000  
All mail to  
GPO Box 4009  
Sydney NSW 2001  
T +61 2 13 13 65  
[ausgrid.com.au](http://ausgrid.com.au)

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

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

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

**Ausgrid Overhead Powerlines are in the vicinity of the development.**

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

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

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at [www.ausgrid.com.au](http://www.ausgrid.com.au).

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

**New Driveways - Proximity to Existing Poles**

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

For Official use only

D77/25

### 3. Internal referral comments:

#### 3.1. Environmental Health

##### **Comments:**

##### **Contaminated Land**

*Trim ref: D05916372 – Internal Email - Thomas Facey confirming site contamination requirements 15 Strachan Street, Kingsford (DA/724/2025).*

*Due to no PESI being requested it is recommended that the new contamination evidence condition is included in the consent conditions, as two levels of basement have been proposed.*

*Due to the intensification of use and proposed basement excavation a PESI should have been requested prior to determination of the DA.*

*The site is located in an area not affected by Acid Sulphate Soils.*

##### **Hazardous materials**

*A hazardous material assessment is required for the sites due to the age of the existing buildings they are likely to have asbestos containing materials throughout and possibly lead paint etc.*

*Standard conditions to be included to require a hazardous materials assessment prior to the commencement on demolition.*

##### **Geotechnical report**

*The report explicitly states: "Our scope of work did not include a contamination assessment."*

*Groundwater seepage was recorded in BH1 and BH2 at 5.4 m depth, and the standpipe in BH1 re-stabilised at 5.4 m three days later. The proposed basement excavation is up to ~6.3–46.5 m below existing ground level.*

*As excavations will extend below the water table construction dewatering will be required a standard Construction dewatering condition to be applied to the conditions of consent. It will be necessary to tank the basement.*

##### **Statement of Environmental Effects**

*Council can include on the Condition of Consent a requirement for a Plan of Management. We understand from Council advice that Council's Environmental Health Officer (Thomas Facey) has confirmed this is not required before positive Determination of the Development Application.*

*It is not considered necessary to impose a POM condition on a private residential use.*

##### **Acoustic report**

*A/C units not indicated on the architectural plans but compliance with the POEO noise control regulations 2017 will be required. This is inaudibility after 10.00pm in any residential apartment.*

*Balcony-mounted condenser units at sound power level  $L_w = 65$  dB(A) for each unit. AC units must be set to "quiet mode" at night, which materially reduces predicted levels at receivers.*

#### Communal area

*Rooftop communal area Assumed 30 occupants. There's no explicit recommended about hours of use, maximum numbers, or amplified music in the acoustic report.*

*Recommend conditioning no use of communal area after 10.00am to prevent complaints, max capacity of 30 occupants and no amplified music.*

#### Traffic intrusion

*The report references SEPP (Transport and Infrastructure) 2021 and the Development near Rail Corridors and Busy Roads – Interim Guideline (2008) – this development is not located on a SEPP road and the more stringent 1 hour criteria in the DCP applies.*

#### Mechanical plant

*It is noted that the mechanical services area is located on the roof and is predicted to comply with the NPfI at all noise sensitive receivers with one exception of 1dB which is considered an insignificant exceedance.*

*The acoustic report makes the assumption of the 10dB reduction from outside noise levels to internal noise levels. The general 'rule of thumb' of a 10dB reduction through any open window has been proven to be unreliable and will not be accepted when quoted in any acoustic reports. Calculations of the outside-to-inside reduction of noise shall be based on first principles taking into consideration the dimensions of the opening, the noise environment, frequency of the noise, diffraction/reflection, reverberation and so on.*

*It is recommended acoustic criteria is conditioned for this development and verified prior to the release of any Construction Certificate. In the event of any inconsistency with the acoustic report and conditions of consent the conditions of consent prevail to the extent of the inconsistency.*

### **3.2. Development Engineer**

#### **General Comments**

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

#### **The Assessment Planner is requested to impose conditions relating to the provision and management of the affordable housing units.**

No condition relating to consolidation of the site has been included in this report. The Assessment Planner is requested to contact the Development Engineer Coordinator should a condition/s be required.

#### **Drainage Comments**

1. The Planning Officer is advised that the submitted drainage plans should not be approved

in conjunction with the DA, rather, the Development Engineer has included a number of conditions in this memo that relate to drainage design requirements. The applicant is required to submit detailed drainage plans to the Principal Certifier for approval prior to the issuing of a construction certificate.

The stormwater must be discharged (by gravity) either:

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

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

### **Flooding Comments (not impacted)**

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

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

### **Parking Comments**

#### **Assessment Under SEPP(Housing) 2021**

Parking Requirements for the residential units:

the following number of parking spaces for dwellings not used for affordable housing—

- (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,
- (ii) for each dwelling containing 2 bedrooms—at least 1 parking space,
- (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,

Parking required under SEPP for residential units=  $(2 \times 1.5) + (13 \times 1.0) + (2 \times 0.5)$

Total of 17

### **Parking proposed 18**

the following number of parking spaces for dwellings used for affordable housing—

- (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,
- (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,
- (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,

Parking required under SEPP =  $(2 \times 0.5) + (2 \times 0.4)$   
= 1.8 rounded to 2

Total of 1.8 rounded to 2

### **Parking proposed 2**

In considering this application Council has also looked at parking under a merit assessment using the RDCP. Section 4.15 of the Environmental Planning and Assessment Act 1979 outlines mandatory considerations for consent authorities and therefore the RDCP must be considered. Council is requesting that the applicant provide a minimum of 2 visitor spaces (to be formally allocated as part of the strata plan for the development). Conditions have been included within this report.

Motorbike parking and bicycle parking have been provided in adequate numbers.



### Service Authority Comments

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

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

The subject **is not** subject to this clause.

### Undergrounding of site feed power lines

At the ordinary Council meeting on the 27<sup>th</sup> May 2014 it was resolved that;

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

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

### Waste Management Comments

Council's Senior Development Engineer prepared an issues paper upon receipt of the original Waste Management Plan (WMP):

*The proposed Waste Management arrangements are not supported due to the following issues and requirements:*

- *The application proposes Council bin collection from Strachan Street which is not suitable due to the steep natural verge and the high demand for on-street parking at this location. The application will require up to 25 x 240L bins to be presented fortnightly which will be problematic on the steep Strachan St grass verge and will likely lead to bins being scattered about the roadway which is what is currently occurring with neighbouring properties.*
- *Waste bin collection shall be undertaken from Strachan Lane. This shall be via a loading bay with on-site collection by a Council collection vehicle with the loading bay size and entry requirements based on the swept paths and clearance requirements of a Council collection vehicle (10.5m long, 4.8m high min clearance)*
- *Alternatively, collection may be undertaken by a Council waste collection vehicle parked in Strachan Lane and with a bin presentation area being provided within the site & immediately adjacent to the Strachan Lane boundary. An indented parking bay along the site frontage shall be provided such that if a Council waste collection vehicle is parked, traffic flow in the laneway can still occur.*
- *On each floor, waste chutes for waste and recycling shall be provided while a bin closet for 1 x 240L bin shall also be provided for FOGO. Alternatively, one waste chute and a bin*

closet for 1 x 240L bin for recycling and 1 x 240L bin for FOGO is also acceptable.

- *The submitted waste management plan assumes a weekly collection for recyclables. The applicant is advised that Council's current collection frequency of recyclables is fortnightly. The Waste management plan shall be amended accordingly.*
- *Other bin sizes may also be considered for waste and recycling. For example, 4 x 660L bins for garbage + 4 x 660L bins for recycling will also be acceptable. If larger bin sizes are chosen then access requirements must be reconsidered to ensure the larger bins can be presented to the laneway/loading dock for collection. Access grades of less than 5% (1 in 20) are required for manual handling of these larger bins. Grades greater than this may require the use of a bin-tug. It should also be noted that FOGO bins are only available in 240L size.*

### **Amended plans and Documentation**

**For Development Engineering to continue assessment of this application the following amended/ additional information is required**

- ***Amended architectural plans that provide waste chutes/closets on each floor and facilitate Council Waste Collection from Strachan Lane in accordance with the requirements specified above. Council Waste collection from Strachan Street will not be appropriate in this instance.***
- ***The applicant is required to submit to Council an amended Operational Waste Management Plan (OWMP) detailing waste and recycling storage and disposal for the completed development. The OWMP shall include but not be limited to;***
  - ***The use of the premises and the number and size of occupancies.***
  - ***The type and quantity of waste to be generated by the development based on Council's current collection frequencies.***
  - ***Waste storage facilities and equipment.***
  - ***Access and traffic arrangements.***
  - ***The procedures and arrangements for on-going waste management including collection, storage and presentation of waste bins for collection.***

The latest WMP (D05930301) is generally satisfactory in terms of bin numbers however the building does not provide waste chutes/closets on each floor as requested previously.

Given this matter needs to be addressed prior to any Construction Certificate being lodged / considered a suitable condition has been included that must be satisfied prior to issuing any Construction Certificate.

### **3.3. Landscape Officer**

#### ***Tree Management Comments***

*The inspection of 10/10/25 (refer photos at D05889899 & D05889895) confirmed the findings of the Arborist Report, in that the *Toona ciliata* (Red Cedar, T1) on the Strachan Street verge, beyond the eastern site boundary, in front of the adjoining site at no.19 will not be directly affected by these works, but as it is automatically protected by the DCP due to its location on public property, with its western aspect also overhanging partially in front of the subject site, protection conditions and a bond are warranted and have been imposed to avoid secondary impacts such as damage from trucks, deliveries and similar, and will be sufficient to ensure its preservation in this case.*

*Still on the nature strip, but further to the west, in front of the development site (no.17), and just west of the existing pedestrian gate is then a 16m tall *Casuarina glauca* (Swamp She Oak, T2), which is a mature endemic species that appears in good health but only fair condition due to included leaders 2m above ground level, with a previous wound also observed at a height of 3m on the northern leader, on its eastern side.*

*It has a prominence in the streetscape due to its size/height, so has been assigned a High Retention Value, and is also protected by Council's DCP, so is deemed worthy of retention as part of this application as it will assist in minimizing any visual impacts associated with this larger building on the streetscape.*

*The existing public footpath matches up with a brick fence on the front property boundary which is about 4.5m to its south, and within its TPZ, and may have already acted as physical barriers to some degree to re-direct/deflect the normal radial spread of surface roots in this area.*

*The plans show that this fence will be demolished and replaced with a new vertical slat fence, and while Section 9.1.9 of the Arborist Report states it would be supported on 'isolated pier/post footings', which is a favorable outcome as this would minimize root damage/disturbance when compared to excavating for a more traditional strip footing, no details confirming this have then been included on the plans, and has been estimated as a 4% TPZ encroachment on its own.*

*The existing dwelling at no.17 is then setback 4300mm from the front boundary, and while no dimensions have been provided, when scaled off the plans, dwg's DA108 & 100 show that the northern wall of the new Basement Levels over the eastern half of the site will be provided at a reduced offset of 2700mm, meaning this new footprint would extend closer to the tree, and into an area that is currently open grass/deep soil, at an overall distance of around 7200mm from its trunk, which encroaches its 8.5m TPZ radius to an amount of 10%, meaning the cumulative total from all components here will be 14%, which is categorized as major in AS4970-2009.*

*However, the new front fence should pose no threat on its own as conditions will require any new footings here to be localized pads as this will allow them to be positioned around any main roots that are encountered, and while the Basement Levels will involve major civil works, the offsets provided (and area of deep soil maintained), together with the requirement for the use of tree sensitive techniques such as contiguous bored piers rather than bulk earthworks/excavations, along with the appointment of a Project Arborist who must be present at this stage to supervise relevant works, will all be sufficient to ensure it remains in-situ, with relevant protection measures and a bond imposed to ensure this.*

*It is also noted that an external stormwater line is proposed across the Council verge, between the common boundary of Unit 01-02 and the kerb/street outlet, to the west of this tree, but as the required excavations will be performed a reasonable distance away, no major impacts will arise from this one component.*

*While its southern aspect partially overhangs the front setback of no.17, given its height above ground level in this part of its crown, combined with the front setbacks to be provided as described above, are sufficient to ensure that pruning will not be necessary.*

*Still on the verge, immediately to its west is then an 11m tall Robinia pseudoacacia (Black Locust, T3), which while unlikely to have been planted by Council, is still protected by the DCP; however, this genus is regarded as an undesirable, low value exotic species due to the sharp spines on its branches and its ability to send up 'suckers', which poses a threat of invasion to other private properties and native bushland.*

*A new external stormwater line over the public verge is proposed to its southwest, intersecting its TPZ, with a relocation to an alternative position to lessen the impact on this tree not to be sought in this case as this would then increase impacts on other, more desirable specimens that are being retained (T2 & T4), with its crown noted to be competing with these same trees in this area.*

*So despite there being no major works that would directly require the removal of T3, this officer still agrees with the Arborist recommendations, in that it is unsuitable in the public domain for the reasons listed above, and on this basis, conditions require its removal and replacement with a more desirable native tree, at the applicant's cost, as this will be of more benefit to the streetscape, adjacent native trees and the broader local environment over the long-term.*

*The usual Loss of Amenity Fee that is normally applied to the removal of street trees as part of property development will not be applied in this case to reflect the fact its removal is more of a management decision for Council rather than due to any conflict with the works, along with the fact*

*it is an undesirable species, with its removal to then allow the planting of a native tree that is more in keeping with formal schemes in the area.*

*A *Tristaniopsis laurina* (Watergum, T8) was recently planted by Council on the verge, to the west of T11, towards the western boundary of the subject site, and as it is only a juvenile specimen, has a higher tolerance to disturbance given its limited root spread, but as the Site Stormwater Management Plan by SYJ Consulting Engineers, dwg D02, rev C dated 15/07/25 shows a new external 300mm diameter UPVC stormwater line and discharge point intersecting this same area, in direct conflict with the tree, it has been recommended for removal in the Arborist Report.*

*However, discussions with Council's Development Engineer confirmed that this arrangement could not be supported as it not possible to install one sites external drainage infrastructure in front of another, so these components will have to be redesigned so that they are now contained wholly within the boundaries of the development site.*

*On this basis, conditions specify that these excavations be suitably setback from T2 & T4 (which are being retained), and instead be relocated to the area of T3 which is being removed, and as this would then allow the retention of T8, is Council's preferred position.*

*In the front setback of no.15, right in the northwest site corner, is a mature *Corymbia maculata* (Spotted Gum, T4), measuring 15m x 18m, which is protected by the DCP, displays good health and condition, has been dead-wooded in the past and is exuding kino from a wound/borer infestation on the southern side of its trunk about 3m above ground level.*

*It is the most established specimen assessed for this application, with its crown occupying the entire front setback of no.15, as well as partially overhanging the adjoining private property to its east, no.17, the public verge to its north, and the other adjoining property to the west, no.13, so has been assigned a High Retention Value, as well as a Very High Landscape Significance rating.*

*The existing masonry wall/front fence is just 500mm to its north, which its roots are already displacing, with the plans showing that this structure and its (likely) strip footing will be demolished and replaced, and as this will be performed hard up against its trunk, and within its SRZ, the only way this can be accommodated is if it is supported on isolated pier/post footings, in the same manner that was described for T2 earlier, with relevant protection conditions requiring this imposed in this report, and in recognition of the larger size of the tree and closer proximity of these works, this component must also be personally attended to by a Project Arborist.*

*When scaled off the survey, the existing dwelling to be demolished at no.15 is about 8.4m to its south (6.9m to front patio), which already occupy its TPZ, with the footprint of the two new Basement Levels over the western half of the site noted to be setback a further 5400mm from the front boundary than the eastern half.*

*While no dimensions are provided, when scaled off dwg DA100, the closest basement walls to its south and east will be at an overall offset of around 7300mm from the centre of its trunk, which is the same as the previous plans, and still within its TPZ, accounting for an 11% encroachment, which is only 1% above the lesser, minor category.*

*The same protection measures described earlier for T2 can also be applied here and will specify that the Basement Levels are constructed using contiguous bored piers only, to avoid over-excavation that is associated with more traditional methods.*

*It is also acknowledged that the Arborist Report is based on a previous scheme which has now been updated, and while Planning matters may have been resolved by the amendments that have been made, the building from Ground Level up to Level 5 now encroaches closer to the tree than what it did previously, meaning the incursions that have been calculated may actually be greater than quoted.*

*In this regard, while the Basement will be offset 7.3 away, the Ground Floor Plan (dwg DA101) then shows the Ground Floor Unit (G.01) extending out past (to the north) of this position, closer to the tree, so that the northwest corner/wall will be around 5400mm from the centre of its trunk, with the*



external terrace to then finish even closer, around 3400mm away, which is just beyond its 3m SRZ radius.

This increases the encroachment and threats posed to this tree, as this 3.4m setback will then be applied to the outdoor balconies/planter boxes up to the floor of Level 4 (RL37.15), which is for the full height of the southern aspect of the tree, with Levels 5-6 then stepping back slightly more away to the south, then the roof even further again.

The Arborist assumes minimal impact arising from works associated with the new terrace for G.01 due to being provided at the existing grade of RL24.450, as is confirmed on the Section A plan (dwg DA300), as this will minimize the potential for root damage, with conditions adopting the recommendations made at Section 10.9 of the Arborist Report which requires the use of non-destructive excavation methods and sympathetic footing systems to preserve any major roots encountered for this component.

The piling rig used for construction of the Basement Levels, along with scaffolding required during works and the northern elevation of the completed building will all encroach its southern aspect to varying degrees, and while Section 9.1.7 of the Arborist Report states that the extent of this should be limited to around 10% of its total crown volume, which would be sustainable by the tree, presumably due to its open style canopy; again, this assumption is based off the previous scheme which maintained all elements at a 5.4m offset, not the current 3.4m.

A follow up site inspection and measurements taken on-site on 20/11/25 identified numerous mid-order leaders would require pruning to provide the required clearances, and while this will be more than desirable, more likely in the order of 15-20%, conditions will require attendance by Council's Officer to exercise a high degree of control of and ensure the amount is limited as much as possible.

Based on the factors discussed above, and providing the conditions which adopt the recommendations of the Arborist Report are implemented and adhered to on-site during works, this significant tree can be retained as a site feature, which will then assist with integration of this development into the streetscape.

The only other vegetation within this development site is in the rear setback of no.17, halfway along the eastern boundary, between the existing dwelling and existing free-standing garage, being two, 7m tall *Robinia pseudoacacia* (Black Locust, T5-6), which can be removed as shown and recommended, consistent with past advice, given a combination of their small size, low value and direct conflict with all levels and aspects of the works.

Lastly, beyond the southeast site corner, wholly in the rear setback of the adjoining private property at no.19, scaled off the survey to be 2300mm from the common boundary, is a mature, 7m x 9m *Persea americianna* (Avocado, T7), which is protected by the DCP, and given its location on another site, means that both Council and the applicant have a common law responsibility to ensure it is not affected by this application.

The existing free-standing garage in the southeast corner of the development site was scaled to be around 480mm from the eastern boundary, with this footprint/surfacing likely to have re-directed/deflected the normal radial spread of its surface roots into this area to some degree, in the same manner that was described for other trees earlier in this report.

The Basement 1 Level is limited to the rear/southern half of the site, with dwg DA100 showing that a setback of 1000mm will be provided from the eastern boundary, which will maintain a strip of deep soil contiguous and provide an overall offset of 3300mm from its trunk, which is a superior outcome to previous schemes which showed the basement wall right up onto the common boundary in this location.

While still encroaching its TPZ to an amount of 15%, which is in the 'major' category, this is deemed sustainable by the tree in this case when considering the effect of existing structures on normal root growth, as is allowed by Section 3.3.2, point 'k' of AS4970-2025, with this officer agreeing with the Arborists recommendations that it can be retained, subject to implementation of site specific protection measures.

*While clearance pruning of its western aspect will also be required to avoid conflicts during demolition and for the piling rig, the amount involved should not affect this tree, with the relevant consent for this provided.*

### **Landscape Comments**

*The SEE details that the requirements of the ADG apply in relation Deep Soil for this proposal, and as the minimum amount of 7% of site area has been achieved, is numerically compliant.*

*The Landscape Plans show a high level of detail and treatment, which will dramatically increase the amount of plant material at this site compared to the current situation, and will feature planting and facilities such as seating, BBQ's, a pergola and edible gardens for the common areas at both the Ground and Roof Floor Levels, together with layered planting around the sites perimeter to assist with privacy and screening, and podium planters on the private balconies between Levels 1-5 to enhance and 'green' the building façade, and as such, conditions require that this scheme be fully implemented as part of any approval.*

### **3.4. Building Compliance**

*It is recommended that additional information be obtained for consideration prior to determination of the application:*

#### **Fire Safety Report**

1. *In accordance with the provisions of section 64 of the Environmental Planning and Assessment Regulation 2021, the levels of fire and safety for the new residential flat building are to be assessed to comply with the requirements of the Building Code of Australia (BCA)/National Construction Code and the following requirements are to be satisfied:*
  - a) *A report prepared by a suitably qualified Registered Building Certifier or Building Code of Australia Consultant must be submitted to Council for consideration, in accordance with section 4.17(2) of the Environmental Planning and Assessment Act 1979.*

*The report must include an assessment of the new proposed residential flat building, referencing the relevant provisions of the National Construction Code - Building Code of Australia. The report must also include details of the measures and works considered to be appropriate to achieve an adequate level of fire and safety for the building occupants, for consideration by Council.*

**Appendix 2: SEPP 65 Compliance Table**

Clause	Design Criteria	Proposal	Compliance												
<b>Part 3: Siting the Development</b>															
<b>3D-1</b>	<b>Communal and Public Open Space</b>														
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	<p>Site is 886m<sup>2</sup>, therefore 221.5m<sup>2</sup> is required.</p> <p>The roof terrace (including planter boxes – but excluding access and services) is 205m<sup>2</sup>.</p> <p>The ground floor entrance with associated seating and planting is 25m<sup>2</sup>.</p>	Complies.												
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	The development will achieve adequate sunlight to the COS.	Complies.												
<b>3E-1</b>	<b>Deep Soil Zones</b>														
	<p>Deep soil zones are to meet the following requirements:</p> <p>Site Area:</p> <table border="1"> <thead> <tr> <th>Site Area</th> <th>Min. Dimension</th> <th>Deep Soil Zone (% site)</th> </tr> </thead> <tbody> <tr> <td>&lt; 650m<sup>2</sup></td> <td>-</td> <td>7%</td> </tr> <tr> <td><b>650–1,500m<sup>2</sup></b></td> <td><b>3m</b></td> <td><b>7%</b></td> </tr> <tr> <td>&gt;1,500m<sup>2</sup></td> <td>6m</td> <td>7%</td> </tr> </tbody> </table>	Site Area	Min. Dimension	Deep Soil Zone (% site)	< 650m <sup>2</sup>	-	7%	<b>650–1,500m<sup>2</sup></b>	<b>3m</b>	<b>7%</b>	>1,500m <sup>2</sup>	6m	7%	<p>Site is 886m<sup>2</sup>, therefore 62.02m<sup>2</sup> is required.</p> <p>65.7m<sup>2</sup> provided at the front with a dimension greater than 3m.</p> <p>In total there is 130m<sup>2</sup> of deep soil provided.</p>	Complies.
Site Area	Min. Dimension	Deep Soil Zone (% site)													
< 650m <sup>2</sup>	-	7%													
<b>650–1,500m<sup>2</sup></b>	<b>3m</b>	<b>7%</b>													
>1,500m <sup>2</sup>	6m	7%													
<b>3F-1</b>	<b>Visual Privacy</b>														
	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine</p>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Supported on merit. Refer to key issues assessment above.	Refer to key issues above.			
Building Height	Habitable Rooms and Balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													

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Clause	Design Criteria	Proposal	Compliance
	<p>required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</p>		
<b>3J-1</b>	<b>Bicycle and Car Parking</b>		
	<p>For sites located within 800m of a light rail stop, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street</p>	The car parking requirement is assessed under the SEPP (Housing) 2021.	N/A.
<b>Part 4: Designing the Building</b>			
<b>4A</b>	<b>Solar and Daylight Access</b>		
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid Winter.	16 of the 21 apartments or 76% of total unit receive 2 hours of solar access in mid-winter.	Complies.
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	All apartments receive a minimum of 1 hour of direct sunlight.	Complies.
<b>4B</b>	<b>Natural Ventilation</b>		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	All 21 units will achieve naturally cross ventilation.	Complies.
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Apartments do not exceed 18m.	Complies.
<b>4C</b>	<b>Ceiling Heights</b>		
	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> <li>Habitable Rooms – 2.7m</li> <li>Non-habitable – 2.4m</li> <li>Attic spaces – 1.8m at edge with min 30 degree ceiling slope</li> <li>Mixed use areas – 3.3m for ground and first floor</li> </ul> <p>These minimums do not preclude higher ceilings if desired</p>	The development facilitates the provision of 2.7m floor to ceiling heights in habitable rooms with floor-to-floor heights ranging between 3.15m and 3.25m.	Complies.
<b>4D</b>	<b>Apartment Size and Layout</b>		
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> <li>Studio - 35m<sup>2</sup></li> <li>1 bedroom - 50m<sup>2</sup></li> </ul>	All apartments meet the size requirements.	Complies.



Clause	Design Criteria	Proposal	Compliance															
	<ul style="list-style-type: none"> <li>• 2 bedroom - 70m<sup>2</sup></li> <li>• 3 bedroom - 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m<sup>2</sup> each</p>																	
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Every habitable room has a window, which meets this requirement.	Complies.															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Rooms meet this standard.	Complies.															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	All units meet this standard.	Complies.															
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)	Bedroom sizes meet this requirement	Complies.															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Bedrooms meet this requirement.	Complies.															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	Open plan areas meet this standard.	Complies.															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Width is greater than 4m	Complies.															
<b>4E</b>	<b>Apartment Size and Layout</b>																	
	All apartments are required to have primary balconies as follows: <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling type	Minimum area	Minimum depth	Studio	4 m <sup>2</sup>	-	1 bedroom	8 m <sup>2</sup>	2m	2 bedroom	10 m <sup>2</sup>	2m	3+ bedroom	12 m <sup>2</sup>	2.4m	The balcony sizes have been shown to comply with these requirements.	Complies.
Dwelling type	Minimum area	Minimum depth																
Studio	4 m <sup>2</sup>	-																
1 bedroom	8 m <sup>2</sup>	2m																
2 bedroom	10 m <sup>2</sup>	2m																
3+ bedroom	12 m <sup>2</sup>	2.4m																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m	Private open spaces for ground floor apartments easily comply with this.	Complies.															
<b>4F</b>	<b>Common Circulation and Spaces</b>																	
	The maximum number of apartments off a circulation core on a single level is eight	Maximum of 4.	N/A.															

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Clause	Design Criteria	Proposal	Compliance
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	6 stories high.	N/A.
<b>4G</b>	<b>Storage</b>		
	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> <li>• Studio apartments - 4m<sup>3</sup></li> <li>• 1 bedroom apartments - 6m<sup>3</sup></li> <li>• 2 bedroom apartments - 8m<sup>3</sup></li> <li>• 3+ bedroom apartments - 10m<sup>3</sup></li> </ul> <p>At least 50% of the required storage is to be located within the apartment</p>	The architectural plans show compliance for all apartments with this requirement.	Complies.

**Appendix 3: DCP Compliance Table**

**3.1 Section B6: Recycling and Waste Management**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>4.</b>	<b>On-Going Operation</b>		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.	<p>The garbage area is located at the rear of the development with direct access to the laneway.</p> <p>It is setback and screened from the laneway.</p>	Yes.
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.	<p>The waste storage facilities are suitably located.</p> <p>No unreasonable acoustic or odour impacts expected.</p>	Yes.
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.	The waste is located in the basement.	Yes.
	(vii) Ensure the waste storage facilities are easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).	Waste facilities are suitably accessible, they can be taken up to the collection point on Strachan Lane.	Yes.
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	Apartments are suitably sized for this.	Yes.
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to	Conditioned.	Conditioned.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	the sewerage system and have lighting and water supply.		

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**3.2 Section B7: Transport, Traffic, Parking and Access**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>3. Parking &amp; Service Delivery Requirements</b>			
	Car parking requirements: <ul style="list-style-type: none"> <li>• 1space per 2 studios</li> <li>• 1 space per 1-bedroom unit (over 40m2)</li> <li>• 1.2 spaces per 2-bedroom unit</li> <li>• 1.5 spaces per 3 or more bedroom unit</li> <li>• 1 visitor space per 4 dwellings</li> </ul>	Considered under the SEPP (Housing) 2021.	N/A.
	Motorcycle requirements: 5% of car parking requirement	1 space provided, which is 5% of car parking provided.	Yes.
<b>4. Bicycles</b>			
	Residents: <ul style="list-style-type: none"> <li>• 1 bike space per 2 units</li> </ul> Visitors: <ul style="list-style-type: none"> <li>• 1 per 10 units</li> </ul>	12 provided. 21 units provided.	Yes.

**3.3 Section C2: Medium Density Residential**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>2. Site Planning</b>			
<b>2.3 Private and communal open space</b>			
<b>2.3.1 Private open space</b>			
	Private open space is to be: <ul style="list-style-type: none"> <li>(i) Directly accessible from the living area of the dwelling.</li> <li>(ii) Open to a northerly aspect where possible so as to maximise solar access.</li> <li>(iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.</li> </ul>	The Private Open Space complies with these requirements.	Complies.
	<b>For residential flat buildings:</b> <ul style="list-style-type: none"> <li>(vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof</li> </ul>	The Private Open Space comply with these requirements.	Complies.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m <sup>2</sup> and a minimum dimension of 2m.		
<b>2.3.2</b>	<b>Communal open space</b>		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	The communal open space is primarily located on the roof top.  Access to sunlight from the north.  Suitable landscaping on the roof.  There is seating and shade structures.	Complies.
<b>3. Building Envelope</b>			
<b>3.3</b>	<b>Building depth</b>		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	Building depth is 31.8m.  All apartments have at least dual aspect to maintain suitable amenity.	Complies.
<b>3.4</b>	<b>Setbacks</b>		
<b>3.4.1</b>	<b>Front setback</b>		
	(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries. (ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting,	Front setback is consistent with the adjoining properties and is 4m to the edge of the balconies.  The front setback is free of outbuilding and structures, apart from the hydrant booster.  The front setback is mostly landscaped area and contains a large canopy tree.	Complies.



DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	with the exception of driveways and pathways.		
<b>3.4.2</b>	<b>Side setback</b>		
	<p><b>Residential flat building</b></p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> <li>- 20m ≤ site frontage width: 4m</li> </ul> <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> <li>- Create articulations to the building facades.</li> <li>- Reserve open space areas and provide opportunities for landscaping.</li> <li>- Provide building separation.</li> <li>- Improve visual amenity and outlook from the development and adjoining residences.</li> <li>- Provide visual and acoustic privacy for the development and the adjoining residences.</li> <li>- Ensure solar access and natural ventilation for the development and the adjoining residences.</li> </ul> <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	See Key Issues Section	Acceptable on merit.
<b>3.4.3</b>	<b>Rear setback</b>		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth (being 6.66m) or 5m, whichever is the greater.	See key issues section.	Acceptable on merit.
<b>4. Building Design</b>			
<b>4.1</b>	<b>Building façade</b>		
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</p> <p>(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the</p>	<p>Building address front and rear boundaries.</p> <p>Front wall alignments are parallel to front property boundary.</p> <p>Facades are articulated.</p>	Complies.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>proportions and visual character of the street.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>	<p>Divided up into bays and has suitable articulation zones.</p> <p>Building services are suitably located.</p>	
<b>4.2</b>	<b>Roof design</b>		
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> <li>- There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences.</li> <li>- The size and location of terrace or deck will not result in</li> </ul>	<p>Communal roof terrace is proposed.</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>- Landscaped edging</li> <li>- BBQ and seating areas.</li> <li>- Fire stairs</li> <li>- Lift</li> <li>- Services</li> <li>- Pergola structures.</li> </ul> <p>This development is not comparable to adjoining properties.</p> <p>The fire stair is suitably minimized in terms of bulk.</p> <p>Sight line diagrams have been provided and are considered in the key issues section.</p> <p>An acoustic report has been provided to determine any potential noise impacts.</p> <p>Suitability of the landscaping has been considered by Council's Landscape Officer.</p>	<p>Complies.</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>unreasonable noise impacts on the adjoining residences.</p> <ul style="list-style-type: none"> <li>- Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street.</li> <li>- Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building.</li> </ul> <p>(viii) The provision of landscape planting on the roof (that is, “green roof”) is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>		
<b>4.4</b>	<b>External wall height and ceiling height</b>		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	The site is subject to an increased building height due to the Housing SEPP.	N/A.
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Suitable floor to ceiling heights provided.	Complies.
<b>4.5</b>	<b>Pedestrian Entry</b>		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Separate and clearly distinguished pedestrian pathway and vehicular access is provided, noting that vehicular access is via Strachan Lane whilst pedestrian pathway is provided from Strachan Street.	Complies.
	(ii) Present new development to the street in the following manner: <ul style="list-style-type: none"> <li>- Locate building entries so that they relate to the pedestrian access network and desired lines.</li> <li>- Design the entry as a clearly identifiable element in the façade composition.</li> <li>- Integrate pedestrian access ramps into the overall building and landscape design.</li> <li>- For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible.</li> <li>- Design mailboxes so that they are convenient to residents, do not clutter the appearance of</li> </ul>	<p>Access sufficiently relates to the pedestrian network.</p> <p>There is a large open area for the entrance to the building.</p> <p>Direct entries are provided to all of the ground floor units.</p> <p>Mailboxes are located at the front entrance to the building. They’re at 90 degrees to the street.</p> <p>There is weather protection from the planter box two levels above.</p>	Complies.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>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).</p> <ul style="list-style-type: none"> <li>- Provide weather protection for building entries.</li> </ul> <p>Postal services and mailboxes</p> <ul style="list-style-type: none"> <li>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</li> <li>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</li> <li>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</li> </ul>	<p>Mailboxes will be required to meet the postal services requirements.</p>	
<b>4.6</b>	<b>Internal circulation</b>		
	<ul style="list-style-type: none"> <li>(i) Enhance the amenity and safety of circulation spaces by:                             <ul style="list-style-type: none"> <li>- Providing natural lighting and ventilation where possible.</li> <li>- Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors.</li> <li>- Allowing adequate space for the movement of furniture.</li> <li>- Minimising corridor lengths to give short, clear sightlines.</li> <li>- Avoiding tight corners.</li> <li>- Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor.</li> </ul> </li> </ul>	<p>The development proposed appropriate circulation with the core servicing a maximum of 4 apartments per level.</p> <p>The lobbies suitably contain natural light.</p> <p>They are not overly long and are sufficiently wide.</p>	<p>Complies.</p>
	<ul style="list-style-type: none"> <li>(ii) Use multiple access cores to:                             <ul style="list-style-type: none"> <li>- Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites.</li> <li>- Articulate the building façade.</li> <li>- Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units.</li> </ul> </li> </ul>	<p>Ground floor apartments can be accessed from the street and laneway.</p>	<p>Complies.</p>
	<ul style="list-style-type: none"> <li>(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.</li> </ul>	<p>N/A.</p>	<p>N/A.</p>
<b>4.7</b>	<b>Apartment layout</b>		
	<ul style="list-style-type: none"> <li>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</li> </ul>	<p>All apartments have at least dual aspect.</p>	<p>Acceptable on merit.</p>



DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- Providing corner, cross-over, cross-through and double-height maisonette / loft apartments.</li> <li>- Limiting the depth of single aspect apartments to a maximum of 6m.</li> <li>- Providing windows or skylights to kitchen, bathroom and laundry areas where possible.</li> </ul> <p>Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.</p>	<p>Bathrooms are generally internal without openings.</p> <p>Habitable rooms have suitable openings.</p>	
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	Apartments are suitably adaptable.	Complies.
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Each unit meets this requirement.	Complies.
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	Kitchens are suitably located.	Complies.
<b>4.9</b>	<b>Colours, materials and finishes</b>		
	<ul style="list-style-type: none"> <li>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</li> <li>(ii) The selection of colour and material palette must complement the character and style of the building.</li> <li>(iv) Use the following measures to complement façade articulation:                             <ul style="list-style-type: none"> <li>- Changes of colours and surface texture</li> <li>- Inclusion of light weight materials to contrast with solid masonry surfaces</li> <li>- The use of natural stones is encouraged.</li> </ul> </li> <li>(v) Avoid the following materials or treatment:                             <ul style="list-style-type: none"> <li>- Reflective wall cladding, panels and tiles and roof sheeting</li> <li>- High reflective or mirror glass</li> <li>- Large expanses of glass or curtain wall that is not protected by sun shade devices</li> <li>- Large expanses of rendered masonry</li> <li>- Light colours or finishes where they may cause adverse glare or reflectivity impacts</li> </ul> </li> <li>(vi) Use materials and details that are suitable for the local climatic</li> </ul>	<p>Materials, colours and finishes provided in the DA. These have also been conditioned in the approval for further refinement prior to CC release.</p>	Conditioned.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>		
<b>4.12 Earthworks Excavation and backfilling</b>			
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	<p>A geotechnical report has been provided with the application.</p> <p>The earthworks are setback from all boundaries, to lessen the impacts and provide a deep soil zone at the site curtilage.</p>	Acceptable on merit.
	<p><b>Retaining walls</b></p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	<p>The earthworks for the basement are setback a minimum of 600mm.</p> <p>Minimal change in topography proposed under application.</p>	Acceptable on merit.
<b>5. Amenity</b>			
<b>5.1 Solar access and overshadowing</b>			
<b>Solar access for proposed development</b>			
	<p>(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.</p>	<p>The solar access is considered under the ADG.</p>	Acceptable.
	<p>(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at</p>	<p>85.7% of units will receive at least 3 hours of direct sunlight to POS.</p>	Complies.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>least 3 hours between 8am and 4pm on 21 June.</p>		
<b>Solar access for surrounding development</b>			
	<p>(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.</p> <p>(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.</p> <p>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</p>	<p>The development site has a northern aspect to the front. Meaning that the sun tracks across the development.</p> <p>The eye of the sun and shadow diagrams show an acceptable overshadowing impact.</p> <p>To the east (19 Strachan), the dwelling will continue to receive compliant solar access.</p> <p>To the west (13 Strachan) the townhouses will be impacted in the morning, however, these units also have windows facing west.</p> <p>The southern properties on See Street will have additional overshadowing, but this does not cause non-compliance as the shadow shifts over the course of midwinter to balance associated impacts.</p>	<p>Acceptable.</p>
<b>5.2</b>	<b>Natural ventilation and energy efficiency</b>		
	<p>(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.</p>	<p>The internal areas will receive sufficient natural light.</p>	<p>Complies.</p>
	<p>(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.</p>	<p>BASIX Certification has been provided.</p>	<p>Acceptable.</p>
	<p>(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.</p>	<p>All habitable rooms contain windows.</p>	<p>Complies.</p>
	<p>(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.</p>	<p>No habitable rooms solely rely on mechanical ventilation.</p>	<p>Complies.</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	All units are cross ventilated.	Complies
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to operable windows.	The kitchens have operable windows.	Complies.
<b>5.3</b>	<b>Visual privacy</b>		
	<ul style="list-style-type: none"> <li>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</li> <li>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</li> <li>(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.</li> <li>(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.</li> <li>(v) Incorporate materials and design of privacy screens including:                             <ul style="list-style-type: none"> <li>- Translucent glazing</li> <li>- Fixed timber or metal slats</li> <li>- Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings</li> <li>- Screen planting and planter boxes as a supplementary device for reinforcing privacy protection</li> </ul> </li> </ul>	<p>Windows generally face to the front and the rear of the site.</p> <p>All balconies face towards the front and rear of the site.</p> <p>Side facing living room windows are highlight.</p> <p>See Key Issues for further assessment.</p>	Acceptable on merit.
<b>5.4</b>	<b>Acoustic privacy</b>		
	<ul style="list-style-type: none"> <li>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</li> <li>(ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</li> <li>(iii) Utilise appropriate measures to maximise acoustic privacy such as:                             <ul style="list-style-type: none"> <li>- Double glazing</li> </ul> </li> </ul>	<p>An acoustic report has been provided and reviewed by Council’s Environmental Health Officer.</p> <p>Suitable conditions have been provided.</p>	Suitably conditioned.



DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- Operable screened balconies</li> <li>- Walls to courtyards</li> <li>- Sealing of entry doors</li> </ul>		
<b>5.6</b>	<b>Safety and security</b>		
	(i) Design buildings and spaces for safe and secure access to and within the development.	There is safe and secure access, including gated entry.	Complies.
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Direct access via fire stairs and lift.	Complies.
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	Suitable orientation and ventilation provided.	Complies.
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No high walls or parking structures.	Complies.
	(vi) Resident car parking areas must be equipped with security grilles or doors.	Parking has a roller shutter.	Complies.
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	Each apartment is fitted with a secure locking system.	Complies.
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Entrances and pedestrian pathways are well-lit and designed to maintain clear sightlines, enhancing passive surveillance and user safety.	Complies.
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	The proposal provides opportunities for casual surveillance from multiple units.	Complies.
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	The lighting will be conditioned.	Condition not to be a nuisance.
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	Capable of compliance – subject to above condition.	Complies.
<b>6.</b>	<b>Car parking and access</b>		
<b>6.1</b>	<b>Location</b>		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	Accessed off rear lane.	Complies.
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	Driveway to the shutter door is sufficiently reduced.	Complies.
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	The driveway is setback by 2m from the eastern side boundary.	Complies.
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	Roller door is setback 6m from the rear lane boundary – creating sufficient room for waiting bay.	Complies.
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development.	Car parking is provided in a basement.	Complies.
<b>6.2</b>	<b>Configuration</b>		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	Vehicles can enter and exit in a forward direction.	Complies.
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	Driveway width is 6.2m, but it does incorporate a waiting bay/ loading zone.	Acceptable on merit.
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as:	Basement carpark.  Mechanical ventilation shown on the plans.  Basement is below existing ground level.  Landscaping is used around the perimeter of the development.  Fire stairs and lift provide access to the apartments.  Garage door will be installed.  Services are suitably concealed.	Complies.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- Installing security doors to avoid 'black holes' in the facades.</li> <li>- Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum.</li> <li>- Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.</li> </ul>		
<b>7. Fencing and Ancillary Development</b>			
<b>7.1</b>	<b>Fencing</b>		
	<ul style="list-style-type: none"> <li>(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering.</li> <li>(ii) Sandstone fencing must not be rendered and painted.</li> <li>(iii) The following materials must not be used in fences:                             <ul style="list-style-type: none"> <li>- Steel post and chain wire</li> <li>- Barbed wire or other dangerous materials</li> </ul> </li> <li>(i) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</li> </ul>	<p>Proposed fencing appears to be fit for purpose.</p> <p>Undesirable materials or blank walls are not proposed.</p>	Complies.
<b>7.2</b>	<b>Front Fencing</b>		
	<ul style="list-style-type: none"> <li>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</li> <li>(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.</li> <li>(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.</li> <li>(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.</li> </ul>	<p>Front fence aligns with boundary.</p> <p>Partially open design, below a height of 1.8m</p> <p>Design is shown to be &gt;30% open.</p> <p>Fence steps to follow the slope.</p>	<p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	The materials are metal.	Acceptable.
	(vii) Gates must not open over public land.	Gates do not open over public land.	Complies.
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	Driveway is at the rear.	N/A.
<b>7.3</b>	<b>Side and Rear Fencing</b>		
	(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing). (ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits. (iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment. (iv) Side or common boundary fences must be finished or treated on both sides.	Side fencing will remain.  Rear boundary will have a driveway to the east and landscaping to the west.	Complies.
<b>7.7</b>	<b>Laundry facilities</b>		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Only the ground floor units have courtyards, no clothes lines are shown.	No.
	(ii) Provide internal laundry for each dwelling unit.	Internal laundries provided.	Complies.
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	Capable of compliance.	Acceptable on merit.
<b>7.8</b>	<b>Air conditioning units:</b>		
	<ul style="list-style-type: none"> <li>• Avoid installing within window frames. If installed in balconies, screen by suitable balustrades.</li> <li>• Air conditioning units must not be installed within window frames.</li> </ul>	AC locations addressed via condition.	Conditioned.



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

**File Reference:** DA/724/2025

D77/25

## Development Consent Conditions (Medium Density Residential)



<b>Folder /DA No:</b>	DA/724/2025
<b>Property:</b>	15 & 17 Strachan Street, KINGSFORD NSW 2032
<b>Proposal:</b>	Demolition of existing buildings/structures and tree removal, amalgamation of two (2) lots, construction of a 6-storey residential flat building containing 21 apartments (with four (4) apartments allocated as affordable housing for 15 years) and a basement level with 19 car parking spaces, Strata subdivision, associated ancillary and landscaping works.
<b>Recommendation:</b>	Deferred Commencement Approval

### Deferred Commencement Conditions

Pursuant to Section 4.16 (3) of the Environmental Planning and Assessment Act 1979, notice is given that the abovementioned development application has been determined by granting of deferred commencement consent subject to the condition below:-

The consent is not to operate until evidence of the following has been submitted to and approved by the Council's Manager of Development Assessment (see Schedule 1 – Deferred Commencement Conditions).

### Schedule 1 – Deferred Commencement Conditions

#### A1 Amendment of Plans & Documentation

Updated plans and documents must be provided to Council for the approval of Council's Manager of Development Assessment in accordance with the following requirements:

##### a) Updated Strata Subdivision Plans and Plan of Consolidation

Updated Strata Subdivision Plans and a Plan of Land Consolidation must be submitted to and approved by Council's Coordinator Development Engineering to reflect the final approval.

##### b) Fire Safety Report

In accordance with the provisions of section 64 of the Environmental Planning and Assessment Regulation 2021, the levels of fire and safety for the new residential flat building are to be assessed to comply with the requirements of the Building Code of Australia (BCA)/National Construction Code and the following requirements are to be satisfied:

- a) A report prepared by a suitably qualified Registered Building Certifier or Building Code of Australia Consultant must be submitted to Council for consideration, in accordance with section 4.17(2) of the Environmental Planning and Assessment Act 1979.

The report must include an assessment of the new proposed residential flat building, referencing the relevant provisions of the National Construction Code - Building Code of Australia. The report must also include details of the measures and works considered to be appropriate to achieve an adequate level of fire and safety for the building occupants, for consideration by Council.

Development Consent Conditions

**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 the deferred commencement conditions:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Site Plan – DA004 (Issue P4)	pdb architects	07 November 2025	14 November 2025
Basement 2 – DA108 (Issue P9)	pdb architects	13 November 2025	14 November 2025
Basement 1 – DA100 (Issue P9)	pdb architects	13 November 2025	14 November 2025
Ground Floor Plan – DA101 (Issue P9)	pdb architects	13 November 2025	14 November 2025
Level 1 Plan – DA102 (Issue P9)	pdb architects	13 November 2025	14 November 2025
Level 2 Plan – DA103 (Issue P8)	pdb architects	07 November 2025	14 November 2025
Level 3 Plan – DA104 (Issue P8)	pdb architects	07 November 2025	14 November 2025
Level 4 Plan – DA105 (Issue P8)	pdb architects	07 November 2025	14 November 2025
Level 5 Plan – DA106 (Issue P8)	pdb architects	07 November 2025	14 November 2025
Roof Plan – DA107 (Issue P8)	pdb architects	07 November 2025	14 November 2025
Elevation North – DA200 (Issue P6)	pdb architects	13 November 2025	14 November 2025
Elevation South – DA201 (Issue P6)	pdb architects	13 November 2025	14 November 2025
Elevation East – DA202 (Issue P6)	pdb architects	13 November 2025	14 November 2025
Elevation West – DA203 (Issue P6)	pdb architects	13 November 2025	14 November 2025
Section A – DA300 (Issue P6)	pdb architects	13 November 2025	14 November 2025
Section B – DA301 (Issue P6)	pdb architects	13 November 2025	14 November 2025
Finishes Schedule – DA400 (Issue P4)	pdb architects	07 November 2025	14 November 2025
Ground Floor Landscape Plan LA02 – Rev C.	Taylor Brammer	14 November 2025	14 November 2025
Roof Top Landscape Plan LA03 – Rev B.	Taylor Brammer	07 November 2025	14 November 2025
Levels 1 – 5 Landscape Plans LA04 – Rev B	Taylor Brammer	07 November 2025	14 November 2025
Planting Plan –	Taylor Brammer	07 November	14 November

Condition					
Ground Floor LA05 – Rev B		2025		2025	
Planting Plan – Roof Top LA06 – Rev B	Taylor Brammer	07 2025	November	14 2025	November
Landscape Sections 1 LA07 – Rev B	Taylor Brammer	07 2025	November	14 2025	November
Landscape Sections 2 – LA08 Rev B	Taylor Brammer	07 2025	November	14 2025	November

<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>
1804552M_02	12 November 2025	14 November 2025

<b>Document reference</b>	<b>Dated</b>
Traffic Impact Assessment (Reference: 25.219r01v04)	14 November 2025
Acoustic Report (REPORT R250445R1)	13 November 2025
CHP Certificate of Registration (Portal Reference PAN-556016)	31 October 2025
Geotechnical Report (Report No: 25/1768C)	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 privacy screen surrounding the ground floor unit (G.02) must have a height of 1.6m (measured above RL 24.45):
 

Privacy screen/s must be constructed with either:

  - Fixed lattice/slats with individual openings not more than 30mm wide;
- b. The terrace on the ground floor of unit G.01 must be predominately deep soil, as shown in the ground floor landscape plan.
- c. The final location of the AC units must be shown on the plans in a location that is suitably screened from the streetscape and shielded by an acoustic enclosure to prevent noise transfer.

Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

3. **Site Consolidation**

The applicant/owner shall prepare and register a 'Plan of Consolidation' that consolidates all current lots within the subject development site into 1 lot. The applicant/developer shall meet all costs associated with the registration of the 'Plan of Consolidation' and evidence of registration shall be provided to the satisfaction of the Principal Certifier.

Condition Reason: To ensure the site is consolidated into 1 lot.



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Condition

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- Waste Management**  
All Waste Management for this development must be undertaken in strict accordance with the Council approved Waste Management Plan.
4. Condition Reason: To ensure the development effectively manages its waste during construction and operational phases.
- Affordable Rental Housing Component**  
As identified on Dwg. No. DA102, Issue P9, dated 13 November 2025 and DA105 Issue P8, dated 7 November 2025 (prepared by PBD Architects), (2x) 2 bedroom units on Level 1 and (2x) 1 bedroom units on Level 4 shall be provided as affordable housing in accordance with the SEPP (Housing) 2021.
- The dwellings to be used for the purpose of 'affordable housing', as per the provisions of the SEPP (Housing) 2021, shall be used as such for at least 15 years from the date of the issue of the Occupation Certificate.
- The affordable housing component must be managed by Cubic Real Estate (the registered Community Housing Provider (CHP)) in accordance with the letter dated 31 October 2025.
5. The CHP must ensure compliance with the occupant restriction and other provisions of the regulatory code established through regulations under the Housing Act 2001.
- A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 that will ensure that the above requirements are met and that the terms of restriction may not be varied without Council's consent.
- Prior to an Occupation Certificate being granted, evidence must be provided to Council demonstrating that the section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.
- Condition Reason: To ensure the affordable housing component is provided in accordance with the consent and managed in accordance with the Housing SEPP.

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

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Condition

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6. **Consent Requirements**  
The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.
- Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.
7. **External Colours, Materials & Finishes**  
The colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application.
- Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for

	Condition
	<p>the development.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
8.	<p><b>Electricity Substation</b> The applicant must liaise with Ausgrid prior to obtaining a construction certificate (for any above ground works), to determine whether or not an electricity substation is required for the development. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on relevant construction certificate and landscape plans. Condition Reason: To ensure the development satisfies Ausgrid's requirements.</p>
9.	<p><b>Traffic conditions</b> Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the Principal Certifier, are to be included in the construction certificate documentation. Condition Reason: To ensure adequate sightlines for pedestrians and drivers are provided.</p>
10.	<p><b>Vehicular Access</b> The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements. Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements</p>
11.	<p><b>Design Alignment levels</b> The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:</p> <p><b><u>Vehicle Access – Strachan lane</u></b> Alignment levels for this laneway must be obtained in writing from Council's Development Engineer Coordinator.</p> <p>The design alignment levels at the property boundary as issued by Council and their relationship to the laneway must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6924.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>
12.	<p><b>Alignment Levels Fee</b> The alignment levels and the site inspection to be undertaken by Council's</p>

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Condition

Development Engineering Section will be issued at a prescribed fee of **\$1313** calculated at **\$65.00** (as of 1<sup>st</sup> July 2025) per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

Condition Reason: To ensure all driveway & footpath works are designed and constructed in accordance with Council requirements and Australian Standards.

**Driveway Gradient**

The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

13. The height of the building must not be increased to satisfy the required driveway gradients.

Condition Reason: To ensure all driveway & footpath works are designed and constructed in accordance with Council requirements and Australian Standards.

**Stormwater Drainage**

Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the Principal Certifier. The drawings and details shall include the following information:

- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
- b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
- 14. c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
  - i. Roof areas
  - ii. Paved areas
  - iii. Grassed areas
  - iv. Garden areas
- e) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
- f) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
- g) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.

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Condition

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

**Site Stormwater System**

The site stormwater drainage system is to be provided in accordance with the following requirements;

- a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the *Principal Certifier* and details are to be included in the construction certificate.
- b) The stormwater must be discharged (by gravity) either:
  - i. Directly to the kerb and gutter in front of the subject site in Strachan Street; or
  - ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

## NOTES:

- Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the proposed infiltration area, or the ground conditions comprise low permeability soils such as clay.
  - If the owner/applicant is able to demonstrate to Council that the ground conditions preclude the use of an infiltration system, a pump-out system may be permitted to drain the portion of the site that cannot be discharged by gravity to Council's street drainage system in front of the property.
- Pump-out systems must be designed by a suitably qualified and experienced hydraulic consultant/engineer in accordance with the conditions of this consent and Council's Private Stormwater Code.

15.

- c) Should stormwater be discharged to Council's street drainage system, an on-site stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a **10% AEP (1 in 10 year)** storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 5% AEP (1 in 20 year) storm is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the Principal Certifier. If discharging to the street gutter the PSD shall be restricted to the above or **25 L/S**, whichever the lesser.
- An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an annual exceedance probability (AEP) of 1% (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1% AEP (1 in 100 year) storm.
- d) Should stormwater be discharged to an infiltration system the following requirements must be met;



Condition
<p>i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.</p>
<p>ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.</p> <p>Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.</p>
<p>iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)</p>
<p>iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (e.g. a road, laneway or reserve).</p>
<p>e) Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.</p> <p>Where possible any detention tanks should have an open base to infiltrate stormwater into the ground. Infiltration should not be used if ground water and/or any rock stratum is within 2.0 metres of the base of the tank.</p>
<p>f) Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1% AEP (1 in 100 year), 2 hour storm assuming both pumps are not working.</p> <p>The pump system must also be designed and installed strictly in accordance with Randwick City Council's Private Stormwater Code.</p>
<p>g) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;</p> <p>i. There are suitable clear-outs/inspection points at pipe bends and junctions.</p> <p>ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.</p>
<p>h) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.</p>

Condition	
i)	<p>A sediment/silt arrester pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.</p> <p>Sediment/silt arrester pits are to be constructed generally in accordance with the following requirements:</p> <ul style="list-style-type: none"> <li>• The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.</li> <li>• The pit being constructed from cast in-situ concrete, precast concrete or double brick.</li> <li>• A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.</li> <li>• A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).</li> <li>• The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.</li> <li>• A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).</li> <li>• Provision of a sign adjacent to the pit stating, "This sediment/silt arrester pit shall be regularly inspected and cleaned".</li> </ul> <p><i>Sketch details of a standard sediment/silt arrester pit may be obtained from Council's Drainage Engineer.</i></p>
j)	<p>The floor level of all habitable, retail, commercial and storage areas located adjacent to any detention and/or infiltration systems with above ground storage must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be provided.</p> <p><i>(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).</i></p>
k)	<p>The maximum depth of ponding in any above ground detention areas and/or infiltration systems with above ground storage shall be as follows (as applicable):</p> <ol style="list-style-type: none"> <li>i. 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area)</li> <li>ii. 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)</li> <li>iii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10</li> <li>iv. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area</li> </ol>

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Condition

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- v. Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

*Note: Above ground storage of stormwater is not permitted within basement car parks or store rooms.*

- l) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- m) A 'V' drain (or equally effective provisions) are to be provided to the perimeter of the property, where necessary, to direct all stormwater to the detention/infiltration area.
- n) Mulch or bark is not to be used in on-site detention areas.
- o) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.
- p) Any onsite detention/infiltration systems shall be located in areas accessible by residents of all units.

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

**Groundwater, Site Seepage & Dewatering**

As the proposed basement level/s may extend into the water table (or be affected by fluctuations of the water table), the following requirements apply:

- a. The design and construction of the basement level/s must preclude the need for dewatering after construction.

That part of the development that may be impacted by the water table must include a water proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of water table levels. (It is recommended that a minimum allowance for a water table variation of at least +/-1.0 metre beyond any expected fluctuation be provided). The actual water table fluctuation and fluctuation safety margin must be determined by a suitably qualified professional.

16. b. Groundwater management systems shall be designed to transfer groundwater around, through or under the proposed development without a change in the range of the natural groundwater level fluctuations in the locality.

Where an impediment to the natural flowpaths is created as a result of the nature of the construction methods utilised or the bulk of the below-ground structure, artificial drains such as perimeter drains and through drainage may be utilised. These systems may only be utilised where it can be demonstrated that the natural groundwater flow regime is restored both up-gradient and down-gradient of the site, without any adverse effects on surrounding property or infrastructure.

Groundwater management systems:

- Are to be designed to be easily maintained.
- Should have a design life of 100 years.

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- c. The basement level/s of the building must be designed by a structural engineer who is qualified and experienced in the design of structures below a water table. Details of the proposed methods of managing groundwater, tanking and waterproofing must be submitted to and approved by the Principal Certifier, prior to issuing the **construction certificate**. A copy of the engineer's qualifications and experience must also be submitted to the Principal Certifier.

In the event of the development being modified in a manner that changes building/structural loads or alters the basement design, a suitably qualified and experienced structural engineer must certify that the design of the basement remains adequate for the site conditions.

Condition Reason: To ensure the management of groundwater within the development site.

**Groundwater Management**

Prior to the issue of a construction certificate, a report must be submitted to and approved by the Principal Certifier, detailing the proposed methods of excavation (including support), managing groundwater and dewatering the site.

The report is to be prepared by a suitably qualified and experienced Geotechnical and/or Hydrogeological Engineer and include:

- 17.
- a. Details of compliance with relevant approvals and licences (e.g. Council's conditions of consent and Water Licence from the Office of Water.
  - b. The proposed method of excavation, shoring/piling and dewatering.
  - c. Assessment of the potential risk of off-site impacts such as damage to surrounding buildings or infrastructure due to differential sediment compaction and surface settlement during and following pumping of groundwater. *Note: The assessment must demonstrate that the proposed method of excavation and dewatering will not pose an unacceptable risk of damage.*
  - d. The zone of any possible settlement.
  - e. Details of the proposed temporary disposal of groundwater and/or construction site stormwater to Council's drainage system. *Note: Prior to discharging groundwater (or site stormwater) into Council's stormwater drainage system, separate written approval must be obtained from Council in accordance with Section 138 of the Roads Act 1993.*
  - f. The location of any proposed re-injection points in relation to the property boundaries (where re-injection equipment is to be located on land other than the subject premises, the written consent of the owner must also be provided to Council).
  - g. Details of groundwater quality and proposed disposal of any potentially contaminated groundwater in an environmentally sensitive manner. The details must demonstrate compliance with relevant requirements and approvals of the Office of Environment & Heritage, Council and the Protection of the Environment Operations Act 1997.
  - h. The program to monitor fluctuations of the water table during dewatering/ construction to ensure that the conditions of consent and other relevant requirements are satisfied.



Condition	
i.	The location of all proposed monitoring and pumping equipment in relation to the property boundaries (where monitoring or pumping equipment is to be located on land other than the subject premises, the written consent of the owner must also be provided to Council).
j.	Details of any consultation and arrangements made with owners of any potentially affected nearby premises (i.e. in relation to access, monitoring and rectification of possible damage to other premises)
k.	Certification that the proposed methods of dewatering and excavation are: <ul style="list-style-type: none"> <li>• appropriate and in accordance with 'best practice' principles; and</li> <li>• should not result in any unacceptable levels of settlement or damage of the adjoining or nearby buildings within the zone of influence.</li> </ul>

A copy of the approved report must be submitted to Council, (for Council's record keeping purposes and as confirmation that this condition has been complied with), prior to the commencement of any site construction works.

Any practices or recommendations made by the consulting engineer/s in the approved report must be implemented accordingly and the dewatering process must be monitored by the consulting engineer/s to the satisfaction of the Principal Certifier.

Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.

**Public Utilities**

A *Public Utility Impact Assessment* must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.

18. The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other authorities to adjust, repair or relocate their services as required.

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

**Undergrounding of Site Power**

Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in Strachan Street. No Permanent Private Poles are to be installed with all relevant documentation submitted for the construction certificate to reflect these requirements to the satisfaction of the Principal Certifier. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out the works to the requirements and satisfaction of Ausgrid and at no cost to Council.

- 19.

Condition Reason: To minimise the use of private poles in accordance with Council's resolution and protect street amenity.

**Parking Allocation**

Prior to lodging any Construction Certificate, the applicant must submit to Council for approval, and have approved, a parking allocation plan.

- 20.

The parking allocation plan must be prepared in full consultation with Council's Development Engineer Coordinator and must make provision for allocation of a minimum two (2) car spaces allocated and signposted as Visitor parking. The Strata Plan for this application must demonstrate strict compliance with the

	Condition
	<p>approved parking allocation.</p> <p>Condition Reason: To demonstrate compliance with onsite parking requirements in accordance with the Housing SEPP 2021.</p> <p><b>Survey Infrastructure</b> Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed Certifying Authority and the Council that includes and addresses the following:</p> <p>(a) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site.</p> <p>(b) The above letter is required to confirm if any survey infrastructure will be affected or impacted upon by the proposal. If no impact is identified this must be detailed by the Registered Land Surveyor.</p> <p>(c) In the event that survey infrastructure is identified as vulnerable or will be affected or impacted upon by the approved development, a copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report) is required.</p>
21.	<p>The applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.</p> <p><b>Note:</b> Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any <a href="#">survey mark</a> unless authorised to do so by the <a href="#">Surveyor-General</a>.</p> <p>Condition Reason: To ensure the development satisfies requirements with regards to the Preservation of Survey Infrastructure (POSI) under Section 24 of the Surveying and Spatial Information Act 2002.</p> <p><b>Telecommunications infrastructure</b> Prior to the issue of a Construction Certificate in connection with this development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Principal Certifier that arrangements have been made for:</p> <p>(i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and;</p> <p>(ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.</p> <p>NOTE: Real estate development project has the meanings given in section 372Q of the Telecommunications Act.</p> <p>Condition Reason: To comply with the requirements of the Telecommunications Act.</p>

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**Waste Management**  
Prior to lodging any Construction Certificate for the development the applicant must submit to Council for approval, and have approved, an amended Waste Management Plan (WMP) detailing the waste and recycling storage and removal strategy for all of the development.

The WMP must be prepared in full consultation with Council's Development Engineer Coordinator. All Construction Certificate Applications must demonstrate compliance with the approved WMP.

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

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

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

Condition Reason: To ensure all Construction Certificate Plans demonstrate compliance with Council's requirements for Waste Management and to ensure the development effectively manages its waste during construction and operational phases.

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

<b>Housing and productivity contribution</b>	<b>Amount</b>
Housing and productivity contribution (base component)	\$227,055.65
Transport project component	Nil
<b>Total housing and productivity contribution</b>	<b>\$227,055.65</b>

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order)*.

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if

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payment is made before 1 July 2025.

Condition Reason: To require contributions towards the provision of regional infrastructure, and to ensure the housing and productivity contribution is paid.

25. **Section 7.12 Development Contributions**

Development Contributions are required in accordance with the applicable Randwick City Council Development Contributions Plan, based on the development cost of \$12,189,977 the following applicable monetary levy must be paid to Council: \$121,899.77

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

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

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

**IDC** = the indexed development cost

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

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

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

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

Condition Reason: To ensure relevant contributions are paid.

26. **Long Service Levy Payments**

Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

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

Condition Reason: To ensure the long service levy is paid.

27. **Security Deposits**

The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- \$10,000.00 - Damage / Civil Works Security Deposit



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

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

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

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

28. **Sydney Water**

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

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

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

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

Sydney Water's Tap in™ in online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

Condition Reason: To ensure the development satisfies Sydney Water requirements.

29. **Building Code of Australia**

In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 69 of the *Environmental Planning and Assessment Regulation 2021*, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).

Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.

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

	Condition
30.	<p><b>BASIX Requirements</b></p> <p>In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.</p> <p>The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.</p> <p>The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
31.	<p><b>Site stability, Excavation and Construction work</b></p> <p>A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:</p> <ul style="list-style-type: none"> <li>(a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties.</li> <li>(b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.</li> <li>(c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.</li> <li>(d) Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work.</li> <li>(e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the appointed Certifier for the development prior to issue of a relevant construction certificate.</li> </ul> <p>Condition Reason: To ensure the subject site/development and adjoining land is adequately supported and protected during any works.</p>
32.	<p><b>Preliminary Environmental Site Investigation</b></p> <p>Prior to the release of any Construction Certificate a Preliminary Environmental Site Investigation (PESI) should be submitted to Council for review and concurrence. The PESI should state that the site is suitable for the proposed residential use.</p> <p>Condition Reason: To comply with legislative requirements and address potential for unexpected finds.</p>
33.	<p><b>Noise and Vibration</b></p> <p>Noise and vibration from the development must comply with the following requirements and a report prepared by a qualified Acoustic Consultant must be submitted to and approved by Council's Director City Planning, prior to the issue of</p>

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a Construction Certificate:

- i. Noise and vibration from the development shall be assessed in accordance with the NSW Environment Protection Authority (EPA) Noise Policy for Industry 2017, Assessing Vibration: A Technical Guideline (NSW Government, as amended), and any replacement guideline issued or approved by the NSW Environment Protection Authority and relevant Australian Standards and conditions of this development consent.
- ii. Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA Noise Policy for Industry 2017 (NPfI).

**Note:** The stricter of the amenity/intrusiveness criteria becomes the prevailing criteria for the development.

Condition Reason: To comply with relevant legislative requirement.

**Residential Apartments Noise Criteria**

Residential apartments are to be designed and constructed to satisfy the following acoustic criteria:

- i) In naturally ventilated spaces – the repeatable maximum Leq (1 hour) should not exceed:
  - 35 dB(A) between 10.00pm and 7.00am in sleeping areas when windows are closed,
  - 40 dB(A) in sleeping areas when windows are open (24 hours),
  - 45 dB(A) in living areas when windows are closed (24 hours),
  - 50 dB(A) in living areas when windows are open (24 hours).

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

34. ii) In mechanically ventilated spaces – the repeatable maximum Leq (1 hour) should not exceed the following criteria (when the mechanical ventilation system is operating, and doors and windows are closed):
  - 38 dB(A) in sleeping areas between 10.00pm and 7.00am,
  - 45 dB(A) in sleeping areas between 7.00am and 10.00pm,
  - 46 dB(A) in living areas (24 hours).

Note: For future occupant comfort, mechanical ventilation may be installed in addition to natural ventilation and/or mechanically assisted fresh air systems; however, it must not be used as a substitute for satisfying applicable natural and fresh air ventilation requirements.

- iii) Where natural ventilation/mechanically assisted fresh air is provided through other means (such as a plenum or similar), with the ventilation system open/operating:
  - 35 dB(A) between 10.00pm and 7.00am in sleeping areas,
  - 40 dB(A) between 7.00am and 10.00pm in sleeping areas,

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- 45 dB(A) 24 hours in living areas.

(Noise emissions from intermittent, fluctuating noise sources)

- iv) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- v) Where the LA10, 15 minute noise level is below the threshold of hearing, Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
- vi) The noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- vii) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.
- viii) Noise from any entertainment and patrons, when assessed as an LA10 enters any residential use through and internal to internal transmission path is not to exceed the existing internal LA90, 15 minute level in any Octave Band Centre Frequency (31.5Hz to 8kHz inclusive) when assessed in a habitable room at any affected residential use within the mixed-use development between the hours of 7am and 12 midnight and is to be inaudible between 12 midnight and 7am.

Note: The LA10, 15 minute noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise. The background noise level LA90, 15 minute is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver. Background noise monitoring must be carried out in accordance with the long-term methodology in Fact Sheet B of the NPfl unless otherwise agreed by Council's Planning Manager.

(Compliance with acoustic report)

- ix) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Luke Strong of Rodney Stevens Acoustics and authorised by Desmond Raymond of Rodney Stevens Acoustics, dated 13 November 2025, ref R250445R1 Revision 0, titled Noise Impact Assessment Proposed Residential development 15-17 Strachan Street Kingsford, Council Ref: D05930303 must be implemented in the development prior to the commencement of its use.

Where there is an inconsistency between the acoustic report and conditions of this consent the conditions of consent prevail to the extent of the inconsistency.

Note: A Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society, Institution of Engineers Australia or the Association of Australian Acoustical Consultants at the grade of member.

Condition Reason: To comply with relevant legislative requirement.



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**Noise Emissions**

Noise from the development must not cause an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and must satisfy the project amenity/intrusiveness noise level or the maximum noise level as detailed in the NSW EPA Noise Policy for Industry 2017 (NPfI) and conditions of this development consent.

35. A report prepared by a qualified Acoustic Consultant, which provides details of compliance with the abovementioned criteria, must be provided to the Council and the Certifier for the development and any recommendations and requirements are to be included in the Construction Certificate accordingly.

Condition Reason: To comply with relevant legislative requirement.

**Waste Rooms**

To ensure the adequate storage and collection of waste from the occupation of the building, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage area.

36. a) The waste storage area must be designed and constructed in accordance with the following requirements to minimise odours, deter vermin, and protect surrounding areas:-
- (i) Provided with a hose tap connected to the water supply.
  - (ii) Paved with impervious floor materials.
  - (iii) Coved at the intersection of the floor and walls.
  - (iv) Graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water).
  - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the *Protection of the Environment Operations Act 1997*.
  - (vi) An adequate lighting system must be provided (natural or artificial) to the waste room to aid with cleaning and the detection of pest activity.
  - (vii) Fitted with appropriate interventions to meet fire safety standards in accordance with the *Building Code of Australia*.
- b) Detailed plans and specifications for the construction of the waste storage area are to be submitted to the Certifying Authority with the Construction Certificate.

Condition Reason: To comply with the requirements of the BCA and Council waste guidelines.

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**BEFORE BUILDING WORK COMMENCES**

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Condition

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37. **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:

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

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

38. **Dilapidation Reports**

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

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

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

39. **Construction Noise & Vibration Management Plan**

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

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

- (a) The *Construction Noise & Vibration Management Plan* must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority *Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline* (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.

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Condition

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

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

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

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

40. **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
	Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.
41.	<p><b>Construction Site Management Plan</b> A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
42.	<p><b>Public Liability</b> The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>
43.	<p><b>Hazardous Materials Survey</b> A Hazardous Materials Survey Report must be prepared by a certified Occupational Hygienist (<i>Australia Institute of Occupational Hygienists</i>) and submitted to the satisfaction of the Private Certifier prior to any demolition / refurbishment work commencing at the site. The report must identify and record the type, location and extent of any hazardous materials on the site and make recommendations as to their safe management and/or removal to ensure the site is made safe for demolition, construction and future use/occupation.</p> <p>All of the recommendations for management and/or removal of hazardous materials on the site, as outlined in the Hazardous Materials Survey Report, as approved must be complied with.</p> <p>Prior to the issue of any Occupation Certificate, certification must be submitted to the Principal Certifier from a certified Occupational Hygienist (<i>Australia Institute of Occupational Hygienists</i>) confirming that all hazardous materials identified have been contained, managed or removed in accordance with the recommendations given in the approved Hazardous Materials Survey Report and that the site is safe for future occupation in accordance with the approved use.</p> <p>Condition Reason: To ensure the redevelopment is undertaken in a safe manner.</p>
44.	<p><b>Hazardous Materials</b> Hazardous materials arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority, and with the provisions of:</p> <ul style="list-style-type: none"> <li>• Work Health and Safety Act 2011;</li> <li>• Work Health and Safety Regulation 2025;</li> <li>• Protection of the Environment Operations Act 1997;</li> <li>• Protection of the Environment Operations (Waste) Regulation 2014;</li> <li>• NSW EPA Waste Classification Guidelines (2014);</li> <li>• SafeWork NSW Code of Practice for the Safe Removal of Asbestos;</li> <li>• Australian Standard 2601:2025 – The Demolition of Structures;</li> <li>• Randwick City Council's Asbestos Policy.</li> </ul> <p>Details of Compliance must be provided to the Principal Certifier for the development and Council, prior to commencement of site works.</p> <p>Condition Reason: To ensure the redevelopment is undertaken in a safe manner.</p>

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Condition

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45. **Street Tree Management**

The applicant must submit a payment of **\$2,959.37** (GST inclusive) to cover the following costs:

- a. For Council to remove, stump-grind and dispose of the *Robinia pseudoacacia* (Black Locust, **Tree 3** in the Arboricultural Impact Assessment Report by Earthscape Horticultural Services, version 2 dated 16/07/25, *the Arborist Report*), that is located on Council's Strachan Street verge, centrally across the width of no.15, as it is an undesirable, low value, exotic species that is competing with other native trees nearby.
- b. For Council to supply, plant and maintain 1 x 45 litre replacement street tree, *Tristanopsis laurina* (Watergum) back on the public verge in this area at the completion of all works.

This fee must be paid into **Tree Amenity Income** via Council's Customer Service Centre, **prior to a Construction Certificate being issued for the development.**

**The applicant must then contact Council's Landscape Development Officer on 9093-6613 (quoting the receipt number) AND GIVING UP TO SIX WEEKS NOTICE to arrange for removal prior to commencement of works, as well as replanting upon completion.**

**After advising of the receipt number, any further enquiries regarding scheduling/timing or completion of tree works are to be directed to Council's Central Area Tree Preservation & Maintenance Coordinator on 9093-6728.**

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

46. **Street Tree Protection**

To ensure retention of the *Toona ciliata* (Red Cedar, T1) that is located on Council's Strachan Street verge, beyond the eastern site boundary, in front of the adjoining site at no.19, then to its west, in front of the development site (no.17), just west of the existing pedestrian gate, a mature *Casuarina glauca* (Swamp She Oak, T2), then lastly, a recently planted *Tristanopsis laurina* (Watergum, T8) in front of no.15, towards the western site boundary in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must note them for retention, with the position and diameter of their trunks, canopies, SRZ's, TPZ's and Tree Identification Numbers as taken from *the Arborist Report* to be clearly and accurately shown on all plans in relation to the site and new works.
- b. Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as **'the Project Arborist'** for the duration of works and will be responsible for both implementing and monitoring these conditions of development consent, **Section 10 - Recommended Tree Protection Measures** of *the Arborist Report* and any other instructions issued on-site.
- c. The Project Arborist must be present on-site at the relevant stages of works and must keep a log of the dates of attendance and the works performed, which is to be presented as a *'Final Compliance Report'* for the approval of the Principal Certifier, prior to any



Condition	
	Occupation Certificate.
d.	All Construction Certificate plans must confirm that the footprint, setbacks, height and similar of this development, from Basement to Roof Level, will be consistent with the Amended Architectural Plans by PBD Architects, dwg's DA004 - 700, rev P4 dated 07/11/25.
e.	All Construction Certificate plans must include details, notations and similar confirming that the new front boundary fence will comprise vertical battens and is to be supported on localised pier/pad/post footings only and will also need to be a flexible system to allow random placement around any major roots that are encountered.
f.	All Construction Certificate plans must also include details, notations and similar confirming that the two new levels of Basement will be constructed using a method that does not involve bulk earthworks/excavations to be performed beyond the finished positions of this structure, such as contiguous bored piers, or an equivalent alternative that is approved by the Certifier, and must result in the provision of deep soil as shown.
g.	Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property must be contained wholly/directly in front of this development site, so cannot extend beyond the western boundary as is currently shown on the Site Stormwater Management Plan by SYJ Consulting Engineers, dwg D02, rev C dated 15/07/25.
h.	The new external 300mm diameter UPVC stormwater pipe and discharge point must be re-designed and relocated to comply with the requirements specified in point 'g' above, and must also be positioned to minimise impacts on Tree 2 and Tree 8 which are being retained, as per the Project Arborists advice, meaning that any required excavations for this component will likely need to be located between these two trees, with the Principal Certifier to ensure that all Services Plans are both designed and installed on-site to comply with this requirement.
i.	<b>Tree 8</b> must be physically protected by installing evenly spaced star pickets at a setback of <b>2 metres</b> to its west and east, matching up with the kerb to its north and public footpath to its south, to which, safety tape/para-webbing/shade cloth or similar shall then be permanently attached to completely enclose the tree for the duration of works.
j.	<b>Tree 2</b> must then be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing panels, to a minimum of <b>3.5 metres</b> to its east and west, matching up with the back of the kerb to its north and the public footpath to its south, to completely enclose the tree for the duration of works, as detailed at <b>Section 10.5</b> of the Arborist Report.
k.	This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
l.	If additional trunk or branch protection is required to T2, this can be

Condition
<p>provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around their circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.</p> <p>m. There is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble within their TPZ's, with all Site Management Plans to comply with these requirements.</p> <p>n. Demolition/removal of existing surfacing and structures, such as the front masonry fence and dwelling, as well as all initial excavations for new footings and similar within their TPZ's can only be performed by hand, not machinery, and in accordance with <b>Sections 10.8 – 10.9</b> of the Arborist Report, either by, or, under the direct supervision of, the Project Arborist.</p> <p>o. Where major roots with a diameter of 50mm or more are encountered for the new front fence and the Project Arborist requires their retention, a cantilevered, pier and beam style footing must be used to 'bridge-over' the affected areas to then allow these roots to remain in place.</p> <p>p. Where roots with a diameter of less than 50mm are found which are in direct conflict with the footings for the new fence, and the project Arborist gives permission for their pruning, they are to be cut cleanly using hand-held tools only, with the affected area to then be backfilled with clean site soil as soon as practically possible.</p> <p>q. The Project Arborist must be physically present during the stages described in points n-p above, and must take time stamped photos which clearly document those roots which were retained or pruned, which are then to form part of the Final Compliance Report.</p> <p>r. The Principal Certifier and Project Arborist must ensure compliance with these requirements, both on the plans as well as on-site during works and prior to any Occupation Certificate.</p> <p>s. A refundable deposit in the form of cash, credit card or cheque for an amount of <b>\$5,000.00</b> must be paid via Council's Customer Service Centre, <b>prior to a Construction Certificate being issued for the development</b> to ensure compliance with the conditions listed in this consent, and preservation of the trees.</p> <p>The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's '<i>Security Deposit Refund Application Form</i>' and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6613).</p> <p>Any contravention of Council's conditions relating to the trees at any time during works or prior to an Occupation Certificate may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 4.17 (6) of the Environmental Planning and Assessment Act 1979.</p>

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

	Condition
47.	<p data-bbox="467 297 738 322"><b>Protection of Private Trees</b></p> <p data-bbox="467 322 1254 443">To also ensure retention of the mature <i>Corymbia maculata</i> (Spotted Gum, T4) that is located in the front setback of this development site (no.15), in the northwest site corner, as well as a <i>Persea amercianna</i> (Avocado, T7) which is beyond the southeast site corner, wholly in the rear setback of the adjoining private property at no.19 in good health, the following measures are to be undertaken:</p> <ol style="list-style-type: none"> <li data-bbox="544 465 1254 607">a. All documentation submitted for the Construction Certificate application must note them for retention, with the position and diameter of their trunks, canopies, SRZ's, TPZ's and Tree Identification Numbers as taken from '<i>the Arborist Report</i>' to be clearly and accurately shown on all plans in relation to the site and new works.</li> <li data-bbox="544 633 1254 824">b. Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as '<b>the Project Arborist</b>' for the duration of works and will be responsible for both implementing and monitoring these conditions of development consent, <b>Section 10 - Recommended Tree Protection Measures</b> of the Arborist Report and any other instructions issued on-site.</li> <li data-bbox="544 851 1254 969">c. The Project Arborist must be present on-site at the relevant stages of works and must keep a log of the dates of attendance and the works performed, which is to be presented as a '<i>Final Compliance Report</i>' for the approval of the Principal Certifier, prior to any Occupation Certificate.</li> <li data-bbox="544 996 1254 1305">d. All Construction Certificate plans must confirm that the footprint, setbacks, height and similar of this development, from Basement to Roof Level, will be consistent with the Amended Architectural Plans by PBD Architects, dwg's DA004 - 700, rev P4 dated 07/11/25, with measurements in millimetres to also now be included so that the following minimum offsets will be provided, taken from the centre of the trunk of T4 at ground level: <ol style="list-style-type: none"> <li data-bbox="643 1182 1193 1211">i. 7300mm to the northern wall of the Basement Levels.</li> <li data-bbox="643 1211 1254 1256">ii. 5400mm to the northwest corner of the Ground Floor Unit/wall (G.01).</li> <li data-bbox="643 1256 1254 1305">iii. 3400mm to the northwest corner of the terrace of the ground floor (G.01).</li> </ol> </li> <li data-bbox="544 1332 1254 1473">e. All Construction Certificate plans must include details, notations and similar confirming that the new front boundary fence will comprise vertical battens and is to be supported on localised pier/pad/post footings only and will also need to be a flexible system to allow random placement around any major roots that are encountered adjacent T4.</li> <li data-bbox="544 1500 1254 1664">f. All Construction Certificate plans must also include details, notations and similar confirming that the two new levels of Basement will be constructed using a method that does not involve bulk earthworks/excavations to be performed beyond the finished position of this structure, such as contiguous bored piers, or an equivalent alternative that is approved by the Certifier, and must result in the provision of the areas of deep soil as shown.</li> <li data-bbox="544 1691 1254 1758">g. All Construction Certificate plans must also include details, notations and similar to confirm that the terrace for the Ground Floor Unit (G.01) will be provided at or above existing grades, at</li> </ol>

Condition	
	RL24.450, as is shown on the Section A plan, dwg DA300.
h.	Any excavations associated with the installation of new services, pipes, stormwater systems or similar within the front setback must be contained/limited to only the centre line or eastern half of the site, as is shown on the Site Stormwater Management Plan by SYJ Consulting Engineers, dwg D02, rev C dated 15/07/25, in order to maintain a suitable setback for any excavations from T4.
i.	<b>Tree 4</b> must be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing panels to the extent shown at <b>Appendix 6</b> of the Arborist Report, to completely enclose this western half of the front setback for the duration of works, as detailed at <b>Section 10.5</b> of <i>'the Arborist Report'</i> .
j.	This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
k.	If the Project Arborist determines that additional trunk or branch protection is required to T4, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around their circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
l.	Ground protection must also be provided within the TPZ area described in point 'i' above, in accordance with <b>Sections 10.7.1 – 10.7.3</b> of <i>'the Arborist Report'</i> , and is to remain in place until the approved landscaping is being installed.
m.	Within the TPZ there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
n.	Any temporary scaffolding required for the northern elevation of the building, within the TPZ of T4, must be undertaken in consultation with the Project Arborist, and consistent with the requirements of <b>Section 10.13.1</b> of <i>'the Arborist Report'</i> .
o.	Demolition/removal of existing surfacing and structures, being the front fence, dwelling and rear garage, as well as all initial excavations for footings and similar within their TPZ's, being for the front fence, ground floor terrace, stormwater line or similar can only be performed by hand, not machinery, and in accordance with <b>Sections 10.8 – 10.9</b> of the Arborist Report, either by, or under the direct supervision of the Project Arborist.
p.	Where major roots with a diameter of 50mm or more are encountered for the new front fence or terrace for G.01 and the Project Arborist requires their retention, a cantilevered, pier and beam style footing must be used to 'bridge-over' the affected areas to then allow these roots to remain in place.
q.	Where roots with a diameter of less than 50mm are found which are in direct conflict with the footings for the new fence, and the project Arborist gives permission for their pruning, they are to be

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Condition
<p>cut cleanly using hand-held tools only, with the affected area to then be backfilled with clean site soil as soon as practically possible.</p> <p>r. The Project Arborist must be physically present during the stages described in points 'o-q' above, and must take time stamped photos which clearly document those roots which were retained or pruned, which are then to form part of the Final Compliance Report.</p> <p>s. The Principal Certifier and Project Arborist must ensure compliance with these requirements, both on the plans as well as on-site during works and prior to any Occupation Certificate.</p>

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

#### Landscape Plans

48. Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognized organization/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Plans by Taylor Brammer Landscape Architects Pty Ltd, sheets LA00-LD01, rev B dated 07/11/25 and revision C dated 14/11/25, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.

Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.

#### Construction Traffic Management

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

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

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

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

#### Construction Traffic Management

50. A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.
- The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:



Condition
<ul style="list-style-type: none"> <li>• A description of the demolition, excavation and construction works</li> <li>• A site plan/s showing the site, roads, footpaths, site access points and vehicular movements</li> <li>• Any proposed road and/or footpath closures</li> <li>• Proposed site access locations for personnel, deliveries and materials</li> <li>• Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)</li> <li>• Provision for loading and unloading of goods and materials</li> <li>• Impacts of the work and vehicular movements on the road network, traffic and pedestrians</li> <li>• Proposed hours of construction related activities and vehicular movements to and from the site</li> <li>• Current/proposed approvals from other Agencies and Authorities (including NSW Roads &amp; Maritime Services, Police and State Transit Authority)</li> <li>• Any activities proposed to be located or impact upon Council's road, footways or any public place</li> <li>• Measures to maintain public safety and convenience</li> </ul>

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

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

**External Authorities**

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

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

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

**Public Utilities**

Documentary evidence from the relevant public utility authorities confirming they have agreed to the proposed works and that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any demolition, excavation or building works.

52. The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other service authorities to adjust, repair or relocate their services as required.

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

**DURING BUILDING WORK**

## Condition

53. **Site Signage**

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

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

The sign must be—

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

This section does not apply in relation to—

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

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

54. **Restriction on Working Hours**

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

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

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

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

Condition	
55.	<p><b>Noise &amp; Vibration</b></p> <p>Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies, in accordance with the <i>Construction Noise &amp; Vibration Management Plan</i>, prepared for the development and as specified in the conditions of consent.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
56.	<p><b>Construction Site Management</b></p> <p>Temporary site safety fencing must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works.</p> <p>Temporary site fences must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control); heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.</p> <p>Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.</p> <p>All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p>Notes:</p> <ul style="list-style-type: none"><li>• <i>Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</i></li><li>• <i>A separate Local Approval application must be submitted to and approved by Council's Health, Building &amp; Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</i></li></ul> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
57.	<p><b>Public Safety &amp; Site Management</b></p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ol style="list-style-type: none"><li>a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.</li><li>b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.</li><li>c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.</li></ol> <p>Details are to be provided in a Sediment and Erosion Control Plan developed in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <ol style="list-style-type: none"><li>d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.</li></ol>

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Condition

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- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

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

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

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

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

58. **Dust Control**

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

*Dust control measures and practices may include:*

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

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- Condition
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- Condition Reason: To require details of measures that will minimise impacts to the public, and the surrounding environment, during site works and construction.
59. **Site Accessway**  
A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.
- Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.
- Condition reason: To minimise and prevent damage to public infrastructure.
60. **Excavations and Support of Adjoining Land**  
In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 74 of the *Environmental Planning and Assessment Regulation 2021*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
- Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.
61. **Complaints Register**  
A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.
- Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigated, actioned and responded to and documented in a Complaints Register accordingly.
- Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.
- Condition reason: To ensure any complaints are documented and recorded, and to protect the amenity of the surrounding area and residents.
62. **Building Encroachments**  
There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.
- Condition Reason: To ensure no encroachment onto public land and to protect Council land.
- Road/Asset Opening Permit**  
Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:
63. a) 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.



	Condition
b)	Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out.
c)	Relevant Road / Asset Opening Permit fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,
d)	The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a <i>final occupation certificate</i> or occupation of the development (whichever is sooner).
e)	Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.
f)	Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.
g)	Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.
h)	The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each days activities and upon completion.
i)	The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.
j)	Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.
k)	The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.

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

#### Roadway

64. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Condition Reason: To ensure excavation works are undertaken in accordance with the relevant requirements.

65. **Traffic Management**

	Condition
	<p>Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>
66.	<p><b>Traffic Control</b> All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the Transport for NSW Roads - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>
67.	<p><b>External Authorities</b> All conditions and requirements of the NSW Police, Transport for NSW and Council must be complied with at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>
68.	<p><b>Stormwater Drainage</b> Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the Principal Certifier.</p> <p>The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.</p> <p>Condition Reason: To control and manage stormwater run-off during excavation/construction so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
69.	<p><b>Groundwater</b> Any required dewatering must be monitored by the consulting Engineer/s to the satisfaction of the Principal Certifier and documentary evidence of compliance with the relevant conditions of consent and dewatering requirements must be provided to the Principal Certifier and the Council.</p> <p>The site conditions and fluctuations in the water table are to be reviewed by the consulting Engineer prior to and during the excavation/construction process, to ensure the suitability of the excavation and dewatering process and compliance with Council's conditions of consent.</p> <p>Condition Reason: To control and manage any seepage/groundwater during excavation/construction so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
70.	<p><b>Survey Report</b> A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:</p> <ul style="list-style-type: none"><li>• prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,</li><li>• prior to construction (pouring of concrete) of new floor levels,</li><li>• prior to issuing an Occupation Certificate, and</li><li>• as otherwise may be required by the Principal Certifier.</li></ul>

	Condition
	<p>The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.</p> <p>Condition Reason: To ensure compliance with approved plans.</p>
71.	<p><b>Notification – New Contamination Evidence</b> Council's Planning Manager and the Principal Certifier must be notified of any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination.</p> <p>Condition Reason: To ensure the site is redeveloped in accordance with the relevant legislation and to provide measures in the case of unexpected finds.</p>
72.	<p><b>Construction Dewatering Section 68 Approval</b> A separate application must be submitted to and approved by Council for Construction Dewatering, in accordance with section 68 of the Local Government Act 1993, prior to the commencement of any dewatering activities (including but not limited to ground water, surface/rain/stormwater and seepage water).</p> <p>A dewatering management plan must be submitted with an Application for Temporary Construction Dewatering. The Section 68 Local Approval Application form is available to download on Randwick City Council's website.</p> <p>Other Acceptable options for dewatering include:</p> <p>Disposal to sewer (subject to prior approval from Sydney Water), or Off-site disposal by a liquid waste transporter for treatment/disposal to an appropriately licensed waste treatment/processing facility.</p> <p>If any dewatering of the site is to be undertaken, the applicant must obtain all necessary approvals under the Water Management Act 2000 and associated instruments (including any required water access licence). WaterNSW licences for dewatering allow excavation for construction for a temporary period, usually 12 months.</p> <p>All construction dewatering (or associated activities) must be carried out so as not to cause pollution, land subsidence, damage to adjoining property or public infrastructure, or any offence under the Protection of the Environment Operations Act 1997 and Regulations.</p> <p>NOTE: The Department has advised Council that they will not endorse the extraction of groundwater on a permanent basis (i.e. ongoing or perpetual dewatering around a development site) as such developments are considered unsuitable. Where permanent groundwater inflow is expected, affected basements or structures must be fully tanked to prevent reliance on continuous dewatering.</p> <p>Condition Reason: To ensure groundwater is managed in accordance with legislative requirements as a part of the redevelopment.</p>
73.	<p><b>Site Seepage &amp; Stormwater</b> Details of the proposed connection and or disposal of any site seepage, groundwater or construction site stormwater to Council's stormwater drainage system must be submitted to and approved by Council's Development Engineering Coordinator, prior to commencing these works, in accordance with section 138 of the <i>Roads Act 1993</i>.</p> <p>Details must include the following information:</p>

Condition
<ul style="list-style-type: none"><li>• Stormwater/De-Watering Management Plan (prepared by a suitably qualified Environmental Consultant);</li><li>• Detailed plans and specifications;</li><li>• Hydraulic engineering details of the proposed disposal/connection of groundwater or site stormwater to Council/s drainage system</li><li>• Volume of water to be discharged</li><li>• Location and size of drainage pipes</li><li>• Duration, dates and time/s for the proposed works and disposal</li><li>• Details of water quality and compliance with the requirements of the <i>Protection of the Environment Act 1997</i></li><li>• Details of associated plant and equipment, including noise levels from the plant and equipment and compliance with the requirements of the <i>Protection of the Environment Act 1997</i> and associated Regulations and Guidelines</li><li>• Copy of any required approvals and licences from other Authorities (e.g. A water licence from the Department of Planning/Department of Water &amp; Energy).</li><li>• Details of compliance with any relevant approvals and licences</li></ul>

Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties, public health, and Council's stormwater assets.

74. **Tree Management**

Approval is granted for removal of the following trees from within this development site, subject to full implementation of the adopted Landscape Plans and new planting:

- i. The two *Robinia pseudoacacia* (Black Locust, T5-6 in *the Arborist Report*) in the rear setback of no.17, halfway along the eastern boundary, between the existing dwelling and existing free-standing garage, consistent with past advice, given a combination of their small size, low value and direct conflict with all levels and aspects of the works.

Condition Reason: To demonstrate that vegetation has been assessed against Council's environmental and biodiversity controls.

75. **Pruning**

Permission is granted for the minimal and selective pruning of the following:

- i. Those 3<sup>rd</sup> and 4<sup>th</sup> order laterals from the southern aspect of the **Spotted Gum (Tree 4)** that is located in the front setback of this development site, in the northwest corner, only where needed to avoid damage to the tree and/or provide a clearance from the piling rig during construction of the northern walls of the two Basement Levels, scaffolding, the northern elevation of the completed building or similar, and may involve other limbs where needed to balance its crown. Smaller diameter branches on its southern aspect must be temporarily 'tied-back' where necessary to minimize the amount of pruning that is needed.
- ii. Those lower growing, lower order branches from the western aspect of the **Avocado (Tree 7)** which is located beyond the southeast site corner, wholly in the rear setback of the adjoining private property at no.19, only where they overhang into this development site, and need to be pruned to avoid damage to the tree during demolition of the existing free-standing garage; or, to provide a clearance for the piling rig associated with the eastern wall of the Basement Level 1.

Condition Reason: To ensure the protection and longevity of existing significant

	Condition
	trees.
76.	<p><b>Pruning</b></p> <p>To avoid physical damage being caused to these trees from site machinery and similar, this pruning must be completed prior to the commencement of any site works.</p> <p>This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of this/these tree/s, the applicant must negotiate with the neighbour/tree owner for access to perform this work.</p> <p>All pruning can only be undertaken by at minimum, a Practising Arborist who holds a minimum of AQF Level III in Arboriculture and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).</p> <p><b>To ensure that the amount of pruning is minimised, as well as performed in accordance with these conditions, the Arborist undertaking the pruning of T4 must contact Council's Landscape Development Officer on 9093-6613 to arrange a joint site meeting to confirm the location and extent allowed. An Occupation Certificate cannot be issued unless Council confirms this meeting took place prior to pruning.</b></p> <p>Condition Reason: To ensure the protection and longevity of existing significant trees.</p>

#### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
77.	<p><b>Occupation Certificate Requirements</b></p> <p>An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
78.	<p><b>BASIX Requirements</b></p> <p>In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
79.	<p><b>Post-construction Dilapidation Report</b></p> <p>A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.</p> <p>The dilapidation report shall detail whether:</p>



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

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

Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.

80. **Fire Safety Certificate**

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

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

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

81. **Structural Certification**

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

Condition Reason: To ensure the structural adequacy of the building and works.

82. **Sydney Water Certification**

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

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

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

Condition Reason: To ensure the development satisfies Sydney Water requirements.

	Condition
83.	<p><b>Noise Control Requirements &amp; Certification</b> The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i>, NSW Environment Protection Authority (EPA) Noise Policy for Industry and Council's development consent.</p> <p>A copy of the report must be provided to the <i>Principal Certifier</i> and Council prior to an occupation certificate being issued.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p> <p><b>Council's Infrastructure, Vehicular Crossings &amp; Road Openings</b> The owner/developer must meet the full cost for a Council approved contractor to:</p> <ol style="list-style-type: none"> <li>Construct a full width concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site in Strachan Lane.</li> <li>Construct kerb and gutter for the full site frontage in Strachan Lane except opposite the vehicular access.</li> <li>Carry out a full depth, min 1m metre wide, road construction in front of the kerb and gutter along the full site frontage in Strachan Lane.</li> <li>Reconstruct a new 1.3m wide concrete footpath along the full site frontage in Strachan Street. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.</li> </ol> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p> <p><b>Council Infrastructure</b> Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb &amp; gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.</p> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p> <p><b>Civil Works</b> All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p>
84.	
85.	
86.	<ol style="list-style-type: none"> <li>Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.</li> </ol>

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- b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

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

87. **Street and/or Sub-Address Numbering**

Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.

*Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.*

Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.

**Traffic signal system**

A traffic signaling system shall be installed for this development within and at the entrance to the basement carpark at a suitable location to the satisfaction of the Principal Certifier.

The traffic signaling system must comply with the following minimum requirements;

- The traffic signaling system shall be set default to green for vehicles entering the carpark
- The traffic system must display when the carpark is full to avoid vehicles entering the carpark and then reversing up the driveway (since no turning bay is provided).
- The traffic signaling system must be installed and operational prior to occupation of the development.

Condition Reason: To minimise the potential for queuing extending onto the street and ensure the completed carpark is fit for purpose and ready for occupation.

**Carparking**

The proposed carpark shall be finished in a manner fit for its intended use. The car spaces shall be formalised with line-marking and numbering/labelling with such works completed prior to the issuing of an occupation certificate.

89.

Condition Reason: To ensure the completed carpark is fit for purpose and ready for occupation.

90. **Undergrounding of Power**

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The Principal Certifier shall ensure that power supply to the completed development has been provided as an underground (UGOH) connection from the nearest mains distribution pole in Strachan Street. All work is to be to the requirements and satisfaction of Ausgrid and at no cost to Council.

NOTE: Any private poles must be removed prior to the issuing of an occupation certificate.

Condition Reason: To minimise the use of private poles in accordance with Council's resolution and protect street amenity.

**Stormwater Drainage**

A "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the onsite detention/infiltration system is maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

Notes:

- 91.
- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
  - b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
  - c. Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.

Condition Reason: To ensure stormwater run-off is effectively managed for the life of the development.

**Drainage Plan**

A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):

- 92.
- Finished site contours at 0.2 metre intervals;
  - The location of any detention basins/tanks with finished surface/invert levels;
  - Confirmation that orifice plate/s have been installed and orifice size/s (if applicable);
  - Volume of storage available in any detention areas;
  - The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
  - Details of any infiltration/absorption systems; and
  - Details of any pumping systems installed (including wet well volumes).

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

93. **Stormwater Certification**

	Condition
	<p>The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing &amp; Drainage- Stormwater Drainage) and conditions of this development consent.</p> <p>The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
	<p><b>Basement Tanking</b></p> <p>The applicant shall submit to the Principal Certifier and Council certification from a suitably qualified and experienced professional engineer, confirming that the walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s and that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent.</p>
94.	<p>There must be no dry weather seepage/groundwater flows discharging to Council's street gutter.</p> <p>Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
	<p><b>Use of Development and Plant/equipment</b></p> <p>A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Principal Certifier and Council, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the Protection of the Environment Operations Act 1997, NSW Environment Protection Authority Noise Policy for Industry 2017 and conditions of this development consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.</p>
95.	<p>Condition Reason: To ensure that noise and vibration criteria are satisfied.</p>
	<p><b>Asbestos / Hazardous Materials</b></p> <p>A report or statement must be provided to Council which confirms that any hazardous materials (including materials containing asbestos) on the site have been managed, removed and disposed of in accordance with relevant requirements of SafeWork NSW and conditions of development consent.</p>
96.	<p>Condition Reason: to satisfy council that any hazardous materials have been managed, removed and disposed of appropriately.</p>
	<p><b>Tree Protection Certification</b></p> <p>Prior to any Occupation Certificate, written certification must firstly be obtained from Council's Senior Landscape Development Officer (9093-6613) confirming that the requirement for a joint site inspection of hand dug trenches and prior to pruning was performed, as required by the 'Protection of Private Trees' and 'Pruning' conditions, with any other instructions issued also having been complied with during works.</p>
97.	<p>Condition Reason: To demonstrate that the tree protection requirements were complied with throughout works.</p>
	<p><b>Project Arborist Certification</b></p> <p>Prior to any Occupation Certificate, the Project Arborist must submit to, and have approved by, the Principal Certifier, a written 'Final Compliance Report' which confirms compliance with the conditions of consent, <b>Section 10 of the Arborists</b></p>
98.	



	Condition
	<p><b>Report</b>, the dates of attendance and works performed/supervised relating to retention of <b>T1-2, 4 &amp; T7</b>, and must also include time-stamped photos taken at critical stages.</p> <p>Condition Reason: To demonstrate that the tree protection requirements were complied with throughout works.</p> <p><b>Landscape Certification</b> Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by Taylor Brammer Landscape Architects Pty Ltd, sheets LA00-LD01, rev B dated 07/11/25 and revision C dated 14/11/25, with strategies to then be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
99.	<p><b>Nature Strip</b> The nature-strip upon Council's footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.</p> <p>Condition Reason: To ensure that community assets are presented in accordance with reasonable community expectations.</p>
100.	<p><b>Waste Management</b> Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.</p> <p>The waste storage areas shall be clearly signposted.</p> <p>Condition Reason: To ensure adequate waste management for the life of the development.</p>

#### PRIOR TO THE ISSUE OF A SUBDIVISION/STRATA CERTIFICATE

	Condition
102.	<p><b>Strata Certificate</b> A formal application for a strata certificate is required to be submitted to and approved by Council or a registered certifier and all relevant conditions of this development consent are required to be satisfied.</p> <p>Condition Reason: To enable the orderly development of the site.</p>
103.	<p><b>Strata Plans</b> All floors, external walls and ceilings depicted in the proposed strata plan must be constructed.</p> <p>All floors, external walls and ceilings depicted in the proposed strata plan must correspond to those depicted in this development consent and construction certificate for the building.</p> <p>Condition Reason: To ensure the development corresponds with the endorsed plans.</p>

	Condition
104.	<p><b>Survey Plan</b> The applicant shall provide Council with a copy of the base plan of survey (e.g. Plan of Redefinition) for the property prior to issuing of a strata certificate.</p> <p>Condition Reason: To ensure the development corresponds with the endorsed plans.</p>
105.	<p><b>Stage Inspections</b> Details of critical stage inspections carried out by the Principal Certifier, together with any other certification relied upon, must be provided to Council or the Certifier.</p> <p>Condition Reason: To ensure the development corresponds with the endorsed plans and required approvals have been issued.</p>
106.	<p><b>Restriction / Positive Covenant</b> A "restriction on the use of land" and "positive covenant" (under section 88B of the <i>Conveyancing Act 1919</i>) shall be placed on the title of the subject property (in conjunction with registration of the plan of subdivision) to ensure that the onsite detention system and/or infiltration/pump-out system is maintained and that no works which could affect the design function of the infiltration/detention/pump-out system are undertaken without the prior consent (in writing) from Council. The restriction and positive covenant shall not be released, varied or modified without the consent of the Council.</p> <p>The "restriction on the use of land" and "positive covenant" are to be prepared and specified to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's City Services Department.</p> <p>Condition Reason: To ensure the management of onsite infrastructure and services for the life of the development.</p>
107.	<p><b>Easements</b> The applicant shall create suitable right of carriageway and easements as required, however generally all services lines (including stormwater) over any strata lot serving another strata lot are to be common property.</p> <p>Condition Reason: To enable the creation of appropriate easements of a part of the subdivision.</p>
108.	<p><b>Survey Infrastructure</b> Prior to the issue of any Subdivision Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council addressing survey mark preservation and protection. This evidence must include:</p> <ul style="list-style-type: none"><li>(i) A copy of any Surveyor-General's Approval for the Deferment of any Survey Marks granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the draft deposited plan) or</li><li>(ii) A letter, signed by a current NSW Registered Land Surveyor including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all survey marks shown on the Deposited Plan as referring to, or being connected to, the boundaries of the subject land remain in place at the completion of development works.</li></ul> <p><b>Note:</b> Pursuant to Section 38 of the Surveying and Spatial Information</p>

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Condition

Regulation 2017, if it is likely that any new survey mark will be disturbed by associated works (for example, footpath or kerb and gutter construction), a surveyor may defer the placement of those marks.

Condition Reason: To ensure the development satisfies requirements with regards to the Preservation of Survey Infrastructure (POSI) under Section 24 of the Surveying and Spatial Information Act 2002.

**Council Infrastructure**

109. The conditions of development consent must be satisfied and all public roads and reserves must be satisfactorily restored prior to endorsement of the strata subdivision plans

Condition Reason: To ensure the restoration of public infrastructure.

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**OCCUPATION AND ONGOING USE**


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Condition

110. **Use of parking spaces**

The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.

Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.

111. **Management of Strata parking on-site**

A *Strata Parking Management Plan* must be developed and implemented for the development, which includes strategies and measures to 'self-manage' resident and visitor parking within the development.

Strategies and measures may include:

- Adoption of parking by-laws;
- Installation of suitable barriers, bollards, low-height fencing and gates;
- Installation of signage and notices;
- Intercom or key card systems;
- Security systems and security personnel;
- Enforcement processes and provisions to be implemented by the Owners Corporation/Strata Management

Condition Reason: To ensure that on-site parking is managed appropriately, and is for the use of occupants or visitors of the development only.

112. **Fire Safety Statement**

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

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

A copy of the *Fire Safety Statement* must be displayed within the building entrance

Condition	
	or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.
	Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> , and that adequate provision is made for fire safety in the premises for building occupant safety.
113.	<b>External Lighting</b> 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.
114.	<b>Acoustics</b> Noise from the development must not cause an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.  If "offensive noise" complaints are substantiated by an authorised officer under the Protection of the Environment Operations Act, 1997 an acoustic report must be submitted and approved by the Planning Manager of Randwick City Council. The submitted acoustic report must be prepared by a suitably qualified acoustic consultant and include appropriate noise mitigation measure that will be required to allow the premises to cease causing "offensive noise" during their permitted use.  Note: A Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society, Institution of Engineers Australia or the Association of Australian Acoustical Consultants at the grade of member.  Condition Reason: To ensure residential amenity for the development site and neighbouring properties.
115.	<b>Acoustics</b> Speakers and/or noise amplification equipment must not be installed, and music must not be played in any of the outdoor communal areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.  Condition Reason: To ensure residential amenity for the development site and neighbouring properties.
116.	<b>Noise from Residential Air Conditioners</b> The air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or as otherwise specified in relevant Noise Control Regulations: <ul style="list-style-type: none"><li>• before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or</li><li>• before 7.00am or after 10.00pm on any other day.</li></ul> Condition Reason: To ensure residential amenity for the development site and neighbouring properties.
117.	<b>Maximum Capacity - Communal Areas</b> The maximum occupancy capacity is restricted to 30 persons for each outdoor communal area.

	Condition
	The capacity for each area must not exceed the maximum numbers at any given time.
	Condition Reason: To ensure residential amenity for the development site and neighbouring properties.
118.	<p><b>Hours of Use</b></p> <p>The hours of operation for the outdoor Rooftop communal area are restricted to between 07.00am and 10.00pm Monday to Sunday.</p> <p>Condition Reason: To ensure residential amenity for the development site and neighbouring properties.</p>
119.	<p><b>Delivery Vehicles</b></p> <p>Deliveries associated with the site that involve the movement of vehicles, must only occur between the hours of 06.00am and 10.00pm Monday to Saturday and between 08.00am and 08.00pm on Sunday and public holidays.</p> <p>Condition Reason: To ensure residential amenity for the development site and neighbouring properties.</p>
120.	<p><b>Waste Collection Vehicles</b></p> <p>Waste collection services associated with the premises, including the arrival and departure of collection vehicles and any on-site bin movements, lifting and compaction operations, must only occur between the hours of 06.00am and 10.00pm Monday to Saturday, and between 08.00am and 08.00pm on Sunday and public holidays.</p> <p>Condition Reason: To ensure residential amenity for the development site and neighbouring properties.</p>
121.	<p><b>Stormwater Detention/Infiltration System</b></p> <p>The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.</p> <p>Condition Reason: To ensure the site infrastructure is maintained for the life of the development.</p>
122.	<p><b>Residential Parking Permits</b></p> <p>All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.</p> <p>A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.</p> <p>Condition Reason: To assist in managing parking within the locality.</p>

## DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

	Condition
123.	<p><b>Demolition Work</b></p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <p>a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.</p>



Condition
<p>b) The Demolition Work Plan must include the following details (as applicable):</p> <ul style="list-style-type: none"><li>• The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor</li><li>• Details of hazardous materials in the building (including materials containing asbestos)</li><li>• Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)</li><li>• Measures and processes to be implemented to ensure the health &amp; safety of workers and community</li><li>• Measures to be implemented to minimise any airborne dust and asbestos</li><li>• Methods and location of disposal of any hazardous materials (including asbestos)</li><li>• Other measures to be implemented to ensure public health and safety</li><li>• Date the demolition works will commence/finish.</li></ul> <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.</p> <p><i>Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m<sup>2</sup> of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a> in the Building &amp; Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

### DURING DEMOLITION WORK

Condition
<p>124. <b>Demolition Work and Removal of Asbestos Materials</b></p> <p>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 <i>demolition work plan</i>, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul style="list-style-type: none"><li>• A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),</li><li>• Asbestos waste must be disposed of in accordance with the <i>Protection of the Environment Operations Act 1997</i> and relevant Regulations</li><li>• A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",</li></ul>

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Condition

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- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works,
- Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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

Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.

## Development Application Report No. D78/25

**Subject:** 66 Beach Street, Coogee (DA/806/2025)

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### Executive Summary

<b>Proposal:</b>	Demolition of existing structures and construction of a new four (4) storey residential flat building with basement level, comprising four (4) dwellings including one (1) affordable housing dwelling, seven (7) car parking spaces, associated ancillary works, landscaping and earthworks.
<b>Ward:</b>	North Ward
<b>Applicant:</b>	Alex Roth
<b>Owner:</b>	Mr R W Preston and Ms G R Walkom
<b>Cost of works:</b>	\$5,504,210.00
<b>Reason for referral:</b>	The development is subject to SEPP 65 as the building is 3 or more storeys and contains at least 4 dwellings.

### Recommendation

That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 806/2025 for demolition of existing structures and construction of a new four (4) storey residential flat building with basement level, comprising four (4) dwellings including one (1) affordable housing dwelling, seven (7) car parking spaces, associated ancillary works, landscaping and earthworks, at No. 66 Beach Street, Coogee, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

- [1. !\[\]\(2a133ebb0337313d16cc068f19494aa2\_img.jpg\) RLPP Dev Consent Conditions \(med density res\) - DA/806/2025 - 66 Beach Street, COOGEE NSW 2034 - DEV - Randwick City Council](#)

D78/25



**1. Executive summary**

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

- The development is subject to SEPP 65 as the building is 3 or more storeys and contains at least 4 dwellings

The proposal seeks development consent for demolition of existing structures and construction of a new four (4) storey residential flat building with basement level, comprising four (4) dwellings including one (1) affordable housing dwelling, seven (7) car parking spaces, associated ancillary works, landscaping and earthworks.

The key issues associated with the proposal relate to earthworks, non-compliance with building separation along the side elevations and visual privacy, non-compliance with external wall height, amenity of the proposed ground floor apartment and solar access impacts.

The proposal is recommended for approval subject to non-standard conditions that require a detailed geotechnical report revised privacy screens, side and rear fencing details and landscaping treatment of the rear access handle.

**2. Site Description and Locality**

The subject site is known as 66 Beach Street, Coogee and is legally described as Lot 1 DP 83655 & Lot 1 DP 226362. The site area is 811.6m<sup>2</sup> and is rectangular in shape with an additional rear access handle from Beach Lane and has a 15.24m frontage to Beach Street to the east. The site



currently contains a three-storey residential flat building with 3 strata title units and a carport at the rear.

The site falls approximately 7.79m from the rear to the front.

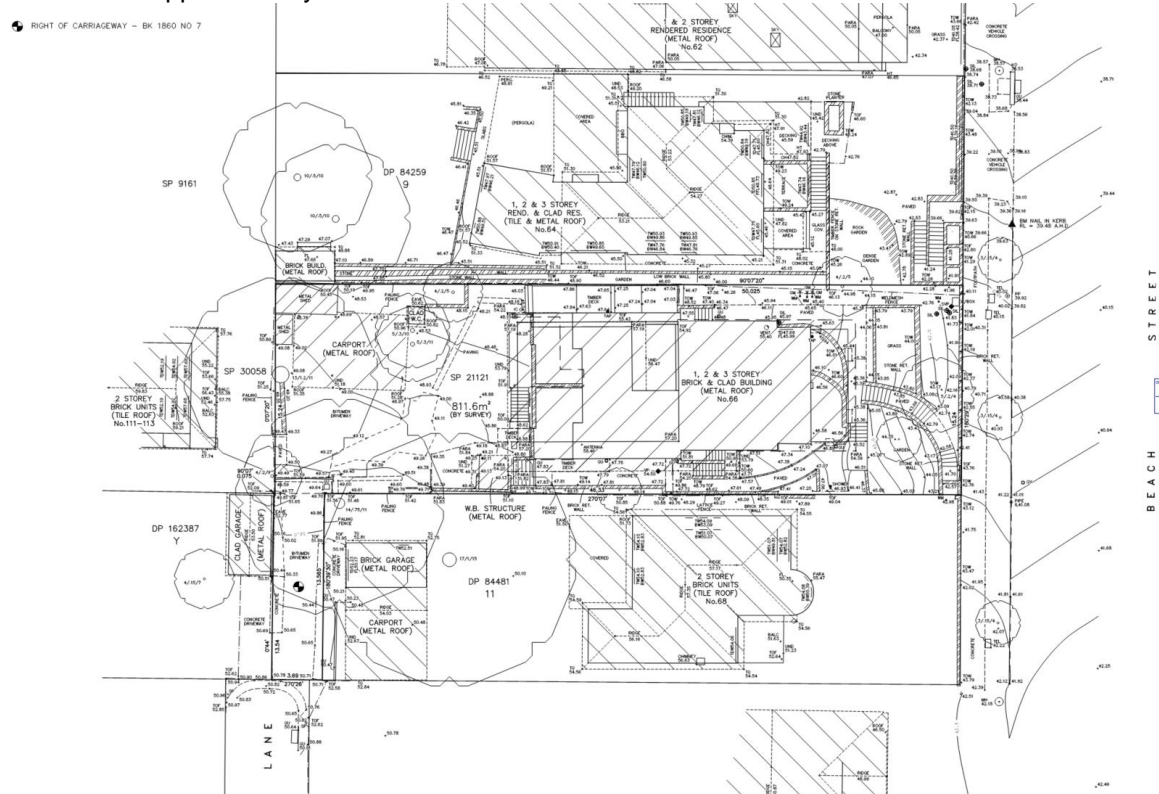


Figure 1: Site survey (Source: Hill & Blume Consulting Surveyors)



Figure 2: The subject site viewed from Beach Street (Source: Council Officer)

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B U I L D I N G





**Figure 3:** Access handle from Beach Lane at the rear (Source: Council Officer)

### 3. Relevant history

#### Adjoining Properties

- 68 Beach Street  
DA/923/2023 was approved as deferred commencement on 10 April 2025 for demolition of existing structures and construction of a four-storey residential flat building comprising 6 apartments, a basement carpark and ancillary landscaping works (variation to building height).

#### Previous Applications

- DA/581/2011 was approved on 26 June 2012 for substantial alterations and additions to an existing residential flat building, including construction of an additional level with master bedroom and ensuite for Unit 3, changes to internal floor layout, installation of new decks, reconfiguration of parking and landscaping and amendments to Strata Plan (SEPP1 Objection to building and external wall heights).
- DA/581/2011/A was approved on 24 October 2012 for Section 96 modification to approved development to modify condition 7 of the consent relating to Sydney Water requirements Original consent: Substantial alterations and additions to an existing residential flat building, including construction of an additional level with master bedroom and ensuite for Unit 3, changes to internal floor layout, installation of new decks, reconfiguration of parking and landscaping and amendments to Strata Plan (SEPP1 Objection to building and external wall heights).

#### Subject Application

- On 12 August 2025, Development Application was lodged with Council seeking consent for demolition of existing structures and construction of a new four (4) storey residential flat building with basement level, comprising four (4) dwellings including one (1) affordable housing dwelling, nine (9) car parking spaces, associated ancillary works, landscaping and earthworks.

- On 12 September 2025, an additional information request was sent to the applicant regarding issues including affordable housing component, building height / external wall height, area calculations, floor space ratio, bulk and scale / street presentation, poor amenity of ground floor apartment, solar access, visual privacy, view sharing, plans, BCA Assessment, Geotechnical Report, Engineering issues including parking layout, access driveway, and waste management, trees and outstanding comments from Design Excellence Advisory Panel (DEAP).
- On 3 October 2025, additional information was received from the applicant, with the following key amendments:
  - A letter from Bridge Housing, who is a registered community housing provider, was received confirming the future management of the nominated affordable housing unit.
  - Building height was confirmed to be compliant with the maximum building height.
  - The area of the access handle was removed from site area calculations.
  - Ground Floor apartment was re-configured to provide improved amenity to the future occupants.
  - Basement area reduced with increased rear setback. Parking layout reconfigured with reduced parking spaces to accommodate eight (8) spaces and increased width of the parking aisle to comply with Australian Standards.
  - Increased size of bin room to accommodate the required number of bins.
  - Northern side setback and rear setback have been slightly increased.
  - Details of the privacy screens were submitted.
  - View analysis was submitted, confirming minimal view loss to the rear adjoining apartments.
  - BCA and Geotechnical Reports were not submitted and were requested to be addressed by way of conditions in the Notice of Determination.
  - The mature *Cinnamomum camphora* was proposed to be retained. However, there are issues remain outstanding, including FSR, bulk and scale, amenity of ground floor apartment, and landscaping treatment of the access handle.
- On 20 October 2025, DEAP meeting was held, and comments were provided to the applicant (refer to Appendix 1).
- On 5 November 2025, a second (2<sup>nd</sup>) additional information request was sent to the applicant requesting the outstanding issues and DEAP comments to be addressed. The outstanding issues included FSR, bulk and scale / street presentation, and landscaping treatment.
- On 14 November 2025, additional information was received from the applicant with most of the issues previously raised by Council and DEAP adequately addressed. Key amendments included:
  - The top floor apartment and associated roof structure was setback further from Beach Street frontage compared to the lower level apartments.
  - Revised building entry from the lower ground / basement level via Beach Street.
  - Parking provision was further reduced to seven (7) spaces.
  - Updated roof plan showing the roof form and addressing drainage cross falls.
  - Updated elevation shadow diagrams and solar analysis and sun eye view of no.68.
  - Stair accesses at the rear were reconfigured to avoid the Tree Protection Zone of the Eucalypts (Tree A) previously on the rear yard of the adjoining property at no.68.
  - Additional cross sections were submitted demonstrating adequate level of amenity provided to the ground floor apartment.

#### 4. Proposal

The proposal seeks development consent for demolition of existing structures and construction of a new four (4) storey residential flat building with basement level, comprising four (4) dwellings including one (1) affordable housing dwelling, seven (7) car parking spaces, associated ancillary works, landscaping and earthworks. Specifically, the proposal involves the following:

##### Basement Level

- Seven (7) parking spaces including one (1) visitor space



D78/25

- Five (5) bicycle parking space
- Storage area including four (4) storage cages
- Services, garbage chute and bin room

**Ground Floor**

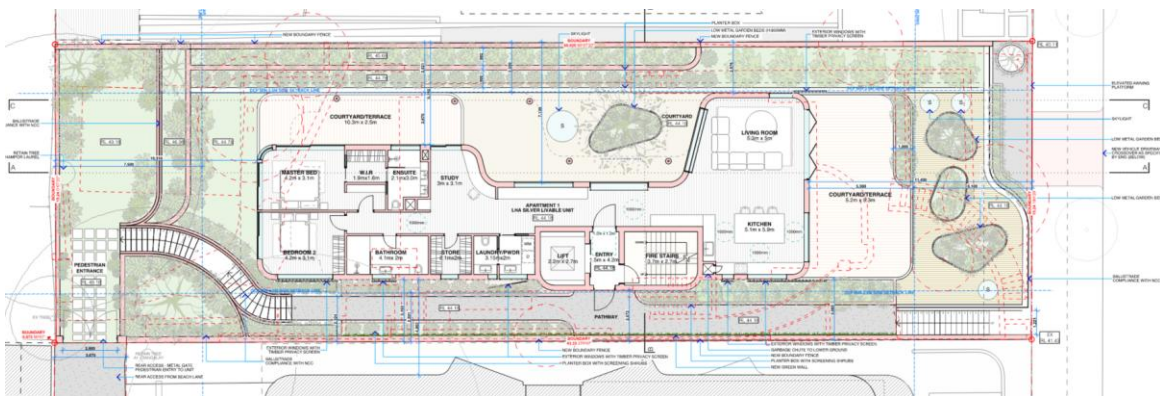
- One (1) x Two (2)-bed apartment consisting of a master bedroom with walk-in-robe, ensuite and access to the northern side terrace, bedroom, bathroom, storage, laundry / powder room, study, an open plan living / kitchen / dining area with access to the front courtyard

**Levels 1 - 3**

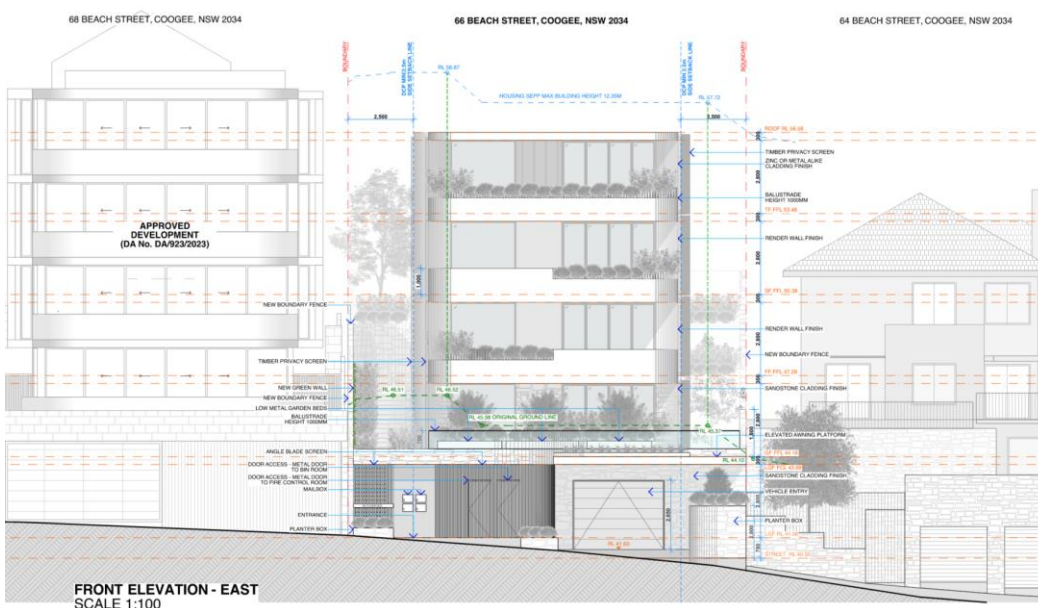
- One (1) x Four (4)-bed apartment consisting of a master bedroom with walk-in-robe and ensuite, two (2) bedrooms with ensuites and access to rear private balconies, one (1) bedroom with ensuite, laundry, powder room, an open plan living / kitchen / dining area with pantry and access to the front balcony

**Ancillary Works**

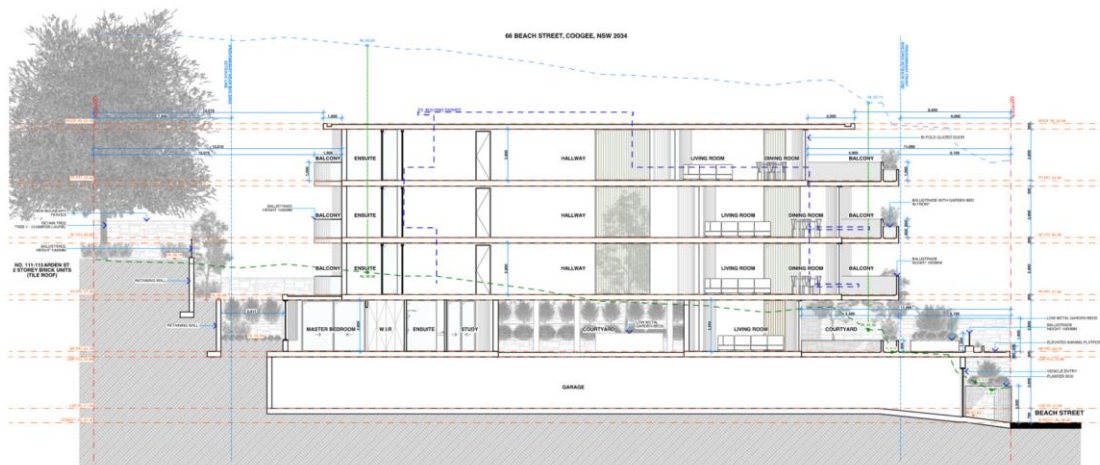
- Excavation works to accommodate the proposed basement and construction of retaining walls
- Associated landscaping works including new terracing to rear yard, a central courtyard located within the northern side setback and a pedestrian pathway within the southern side setback with access from Beach Street to Beach Lane, and green walls along the southern boundary
- Associated stormwater drainage works



**Figure 4: Proposed Ground Floor Plan (Source: Roth Archtiects)**



**Figure 5: Proposed Street Elevation (Source: Roth Archtiects)**



**Figure 6:** Proposed Section AA (Source: Roth Architects)

**5. Notification**

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

- 68 Beach Street

Issue	Comment
Overshadowing Impact on No. 68 Beach Street	The proposal has been amended to provide a greater front setback on the top level to further reduce any potential overshadowing.  Refer to the Key Issues section for further discussion.
Excessive GFA	The proposal complies with the maximum FSR / GFA including bonus allowable for infill-affordable housing under Housing SEPP.
Non-compliance with 25% deep soil area	The proposal provides a deep soil area of 18.7%, which is acceptable on merit noting that compliance with the 7% ADG control is also achieved.  Council's Landscape Officer has reviewed the proposed landscape scheme and raises no concerns, subject to suitable conditions. Refer to detailed assessment at Appendix 1.
Bulk, building separation & visual privacy	As outlined in this report, the proposal provides reasonable building setbacks and a suitable bulk and scale noting overall compliance with key development standards including height and FSR.  Refer to the Key Issues section for further discussion on building separation and visual privacy.
Tree removal	The proposed development has been amended to retain the mature <i>Cinnamomum camphora</i> at the rear of the site.

**6. Relevant Environment Planning Instruments**

**6.1. SEPP (Housing) 2021**

Chapter 2 – Affordable housing

Chapter 2, Division 1 of the Housing SEPP relates to development for the purpose of in-fill affordable housing. An assessment of the proposal against the relevant standards is provided in the table below.

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Standard	Proposal	Compliance
<b>Part 2, Division 1: In-fill affordable housing</b>		
<b>15C Development to which division applies</b>		
(1) This division applies to development that includes residential development if—		
(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and	The proposed development is permitted with consent under RLEP.	Yes
(b) the affordable housing component is at least 10%, and	The affordable housing component is approximately 20% of the total proposed GFA.	Yes
(c) all or part of the development is carried out— (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.	The subject site is located within the Six Cities Region and is located in an accessible area, being within 400m walking distance of a bus stop used by a regular bus service.	Yes
(2) Affordable housing provided as part of development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing component under this division.	Noted.	N/A
<b>16 Affordable housing requirements for additional floor space ratio</b>		
(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).	RLEP = 0.75:1 With the bonus FSR of 30%, the maximum FSR is 0.975:1. Proposed FSR = 0.96:1 or 731.19sqm	Yes
(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—  $\text{affordable housing component} = \frac{\text{additional floor space ratio}}{\text{(as a percentage)}} \div 2$	AH GFA = 146.21sqm Total GFA = 718.23sqm  AH component = 20.4% Additional FSR = 30%	Yes
(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).	RLEP = 9.5m With the bonus height of 30%, the maximum building height is 12.35m.	Yes



Standard	Proposal	Compliance
<b>Part 2, Division 1: In-fill affordable housing</b>		
(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	Noted	N/A
<b>19 Non-discretionary development standards—the Act, s 4.15</b>		
(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—		
(a) a minimum site area of 450m <sup>2</sup> ,	Site = 811.6sqm  Site area without access handle = 761.54sqm	Yes
(b) a minimum landscaped area that is the lesser of— (i) 35m <sup>2</sup> per dwelling, or (ii) 30% of the site area,	Minimum = 30%/228.46sqm  Proposed = 55.5%/423.38sqm	Yes
(e) the following number of parking spaces for dwellings used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.4 spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space,	Minimum = 0.5 (1 x car space)  Proposed = Total 7 car parking spaces	Yes
(f) the following number of parking spaces for dwellings not used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	Minimum = 4.5 (5 x car space)  Proposed = total 7 car parking spaces	Yes
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	Refer to Apartment Design Guide assessment.	Yes
(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,	Not applicable.	N/A
(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m <sup>2</sup> , (ii) for each dwelling containing 2 bedrooms—90m <sup>2</sup> , (iii) for each dwelling containing at least 3 bedrooms—115m <sup>2</sup> plus 12m <sup>2</sup> for each bedroom in addition to 3 bedrooms.	All dwellings exceed the minimum area requirement.	Yes
(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Noted.	Yes
<b>20 Design requirements</b>		
(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the	Not applicable – refer to subsection (2).	N/A

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Standard	Proposal	Compliance
<b>Part 2, Division 1: In-fill affordable housing</b>		
extent to which the guide is not inconsistent with this policy.		
(2) Subsection (1) does not apply to development to which Chapter 4 applies.	Noted.	Yes
(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with— (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	As demonstrated in this report, the proposed development is compatible with the desired future character of the area, which is undergoing transition.	Yes
<b>21 Must be used for affordable housing for at least 15 years</b>		
(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	A condition is included to ensure that the apartments nominated for the affordable housing component remains as affordable housing for at least 15 years.  A letter has been submitted by the Applicant to confirm that Bridge Housing (a registered community housing provider) will be engaged to manage the affordable housing component.	Yes
<b>22 Subdivision permitted with consent</b>		
Land on which development has been carried out under this division may be subdivided with development consent.	No consent is sought for any subdivision.	N/A

Chapter 4 – Design of residential apartment development

Chapter 4 of the Housing SEPP seeks to improve the design of residential apartment development. The proposed development is subject to Chapter 4 of the Housing SEPP as it for residential flat building containing four (4) dwellings and more than three (3) storeys.

Section 147 of the Housing SEPP states:

- (1) *Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*
  - (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*

- (b) *the Apartment Design Guide,*
- (c) *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

Design Excellence Advisory Panel

The application was referred to the Panel for advice concerning the design quality of the development. Detailed comments provided by the Panel are provided at Appendix 1.

In response to the Panel's recommendations, the applicant made amendments to the design as outlined in Section 3 of this report. The assessing officer is satisfied that the amended plans appropriately address most issues raised by the Panel, with the remaining matters resolved through conditions of consent.

Design Quality Principles

The comments provided by the Panel (refer to Appendix 1) detail how each of the nine (9) quality design principals have been considered in the proposal.

Apartment Design Guide

The table below provides an assessment of the proposal against the relevant design criteria contained in Parts 3 and 4 of the Apartment Design Guide (ADG). In cases where the development does not satisfy the relevant criteria, the design guidance has been used to determine whether the proposal still meets the relevant objectives.

Clause	Design Criteria	Proposal	Compliance			
<b>Part 3: Siting the Development</b>						
<b>3D-1</b>	<b>Communal and Public Open Space</b>					
	Communal open space has a minimum area equal to 25% of the site.	Nil proposed – acceptable on merit noting that suitably sized private open space is provided for each unit. The site is in close proximity to public spaces, including Coogee Beach.	On merit			
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Not applicable.	On merit			
<b>3E-1</b>	<b>Deep Soil</b>					
	Deep soil zones are to meet the following requirements: 3m dimension, 7% site area	Required = 53.31m <sup>2</sup> (7%) Proposed = 142.37m <sup>2</sup> (18.7%)	Yes			
<b>3F-1</b>	<b>Visual Privacy</b>					
	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	Northern side = 2.58m – 7.14m Southern side = 2.57m - 3.16m Rear (western) = 10.32m (ground floor) to 12.04m (upper levels)	On merit, refer to Key Issues			
	<table border="1"> <tr> <td>Building Height</td> <td>Habitable Rooms and</td> <td>Non-habitable rooms</td> </tr> </table>	Building Height	Habitable Rooms and	Non-habitable rooms	Separation distance to the rear complies, however	
Building Height	Habitable Rooms and	Non-habitable rooms				

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Clause	Design Criteria	Proposal	Compliance												
	<table border="1" data-bbox="344 197 810 539"> <thead> <tr> <th></th> <th colspan="2">Balconies</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p data-bbox="344 573 810 725">Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)</p> <p data-bbox="344 757 810 907">Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>		Balconies		Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p data-bbox="829 197 1155 259">those to the sides do not comply.</p> <p data-bbox="829 291 1155 380">Refer to discussion at Key Issues section of this report.</p>	
	Balconies														
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													
<b>3G-1</b>	<b>Pedestrian access and entries</b>														
	<p data-bbox="344 949 810 1066">Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge</p> <p data-bbox="344 1070 810 1160">Entry locations relate to the street and subdivision pattern and the existing pedestrian network</p> <p data-bbox="344 1164 810 1281">Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries</p> <p data-bbox="344 1285 810 1402">Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.</p> <p data-bbox="344 1406 810 1585">The design of ground floors and underground car parks minimise level changes along pathways and entries. Steps and ramps should be integrated into the overall building and landscape design.</p> <p data-bbox="344 1590 810 1706">For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3).</p> <p data-bbox="344 1711 810 1800">For large developments electronic access and audio/video intercom should be provided to manage access.</p> <p data-bbox="344 1805 810 1921">Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport.</p> <p data-bbox="344 1926 810 2011">Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces</p>	<p data-bbox="829 949 1155 1066">Pedestrian access afforded to the front and rear of the site for all future occupants.</p> <p data-bbox="829 1097 1155 1617">The proposed pedestrian entry via the Lower Ground Floor/Basement level is considered an acceptable and appropriate design response. Given the modest scale of the development, comprising only four dwellings, the provision of a barrier-free entry at the lower level offers a practical and inclusive alternative to reliance on a single external stair flight noting the site topography.</p> <p data-bbox="829 1648 1155 2011">The lower-ground entry arrangement allows for an improved sense of arrival through opportunities for enhanced lighting, upgraded materiality, clearer wayfinding and a more deliberate architectural expression. These measures collectively support a welcoming and legible</p>	<p data-bbox="1174 949 1335 981">Yes</p>												

Clause	Design Criteria	Proposal	Compliance
	<p>of dwellings, be well lit and contain active uses, where appropriate.</p>	<p>entry sequence while also addressing accessibility considerations that would otherwise be unmet with a stair-only entry.</p> <p>In this context, the proposed entry at the Lower Ground Floor/Basement level is supported, subject to detailed design treatments ensuring a high-quality arrival experience consistent with the scale of the dwellings.</p>	
<b>3H</b>	<b>Vehicle Access</b>		
	<p>Car park access should be integrated with the building's overall facade. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• the materials and colour palette to minimise visibility from the street</li> <li>• security doors or gates at entries that minimise voids in the facade</li> <li>• where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed.</li> </ul> <p>Car park entries should be located behind the building line.</p> <p>Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.</p> <p>Car park entry and access should be located on secondary streets or lanes where available.</p> <p>Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided.</p> <p>Access point locations should avoid headlight glare to habitable rooms.</p> <p>Adequate separation distances should be provided between vehicle entries and street intersections. The width and number of vehicle access points should be limited to the minimum.</p> <p>Visual impact of long driveways should be minimised through changing alignments and screen planting.</p> <p>The need for large vehicles to enter or turn around within the site should be avoided.</p>	<p>Vehicular access recessed within facade and has incorporated appropriate materials.</p> <p>All other areas screened from the public domain.</p> <p>Vehicle entry is located at the lowest point of the site at Beach Street.</p> <p>While it is noted that there is a secondary frontage from Beach Lane, the ground level at Beach Lane is significantly higher than that of Beach Street. In this regard, it is more appropriate to provide the vehicular access from the lowest point of the site from Beach Street. This arrangement is similar to the other properties along Beach Street and the recent approval at no.68 and is consistent with the existing streetscape.</p>	<p>Yes</p>



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Clause	Design Criteria	Proposal	Compliance
	Garbage collection, loading and servicing areas are screened. Clear sight lines should be provided at pedestrian and vehicle crossings. Traffic calming devices such as changes in paving material or textures should be used where appropriate. Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include: <ul style="list-style-type: none"> <li>• changes in surface materials</li> <li>• level changes</li> </ul> the use of landscaping for separation		
<b>Part 4: Designing the Building</b>			
<b>4A</b>	<b>Solar and Daylight Access</b>		
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at midwinter.	100% of units will receive at least two (2) hours of solar access.  The living area and major POS of the apartments are orientated to the front with window openings to both the east and west to facilitate direct solar access throughout midwinter.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	No units will receive no solar access.	Yes
<b>4B</b>	<b>Natural Ventilation</b>		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	100% of units will be naturally cross ventilated.  All apartments afforded with multiple aspects to ensure natural ventilation is captured within living areas.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Proposed > 18m, however suitable natural light and ventilation will be provided to all units.	Yes
<b>4C</b>	<b>Ceiling Heights</b>		
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> <li>• Habitable Rooms – 2.7m</li> <li>• Non-habitable – 2.4m</li> <li>• Attic spaces – 1.8m at edge with min 30 degree ceiling slope</li> <li>• Mixed use areas – 3.3m for ground and first floor</li> </ul> These minimums do not preclude higher ceilings if desired.	Proposed = 2.8m	Yes
<b>4D</b>	<b>Apartment Size and Layout</b>		

Clause	Design Criteria	Proposal	Compliance															
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> <li>• Studio - 35m<sup>2</sup></li> <li>• 1 bedroom - 50m<sup>2</sup></li> <li>• 2 bedroom - 70m<sup>2</sup></li> <li>• 3 bedroom - 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m<sup>2</sup> each.</p>	<p>2 bed = 146.21m<sup>2</sup>                      4 bed = 174.79 – 186.51m<sup>2</sup></p>	<p>Yes</p>															
	<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<p>Complies.</p>	<p>Yes</p>															
	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p>	<p>Complies.</p>	<p>Yes</p>															
	<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>Complies.</p>	<p>Yes</p>															
	<p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</p>	<p>Complies.</p>	<p>Yes</p>															
	<p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p>	<p>Complies.</p>	<p>Yes</p>															
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	<p>Complies.</p>	<p>Yes</p>															
	<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>Complies.</p>	<p>Yes</p>															
<b>4E</b>	<b>Private open space and balconies</b>																	
	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="399 1641 853 1865"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	Dwelling type	Minimum area	Minimum depth	Studio	4 m <sup>2</sup>	-	1 bedroom	8 m <sup>2</sup>	2m	2 bedroom	10 m <sup>2</sup>	2m	3+ bedroom	12 m <sup>2</sup>	2.4m	<p>All apartments are provided with an area of POS in the form of a balcony or courtyard in the front and at the side / rear. The proposed balconies are consistent with the minimum provisions, with all of the balcony areas exceeding the minimum area.</p> <p>GF apartment exceeds 15sqm requirement.</p>	<p>Yes</p>
Dwelling type	Minimum area	Minimum depth																
Studio	4 m <sup>2</sup>	-																
1 bedroom	8 m <sup>2</sup>	2m																
2 bedroom	10 m <sup>2</sup>	2m																
3+ bedroom	12 m <sup>2</sup>	2.4m																

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Clause	Design Criteria	Proposal	Compliance
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	Suitably sized balconies and landscaped planters are provided to the units at ground floor level.	On merit
<b>4F</b>	<b>Common Circulation and Spaces</b>		
	The maximum number of apartments off a circulation core on a single level is eight.	Each level contains one (1) apartment only.	Yes
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Not applicable.	N/A
<b>4G</b>	<b>Storage</b>		
	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> <li>• Studio apartments - 4m<sup>3</sup></li> <li>• 1 bedroom apartments - 6m<sup>3</sup></li> <li>• 2 bedroom apartments - 8m<sup>3</sup></li> <li>• 3+ bedroom apartments - 10m<sup>3</sup></li> </ul> At least 50% of the required storage is to be located within the apartment.	Compliant storage is provided for each unit as part of the basement common area and within units.	Yes

Non-discretionary Development Standards

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

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

Assessing officer’s comment: Compliant onsite car parking is provided.

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

Assessing officer’s comment: Compliant apartment sizes are provided.

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

Assessing officer’s comment: Compliant ceiling heights are provided.

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

A BASIX certificate has been submitted in accordance with the requirements of the Sustainable Buildings SEPP.

**6.3. SEPP (Biodiversity and Conservation) 2021**

Chapter 2 of the SEPP applies to the proposal and subject site. The aims of this Chapter are:

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

The proposed development has been amended to retain the mature *Cinnamomum camphora* at the rear of the site. Nevertheless, the proposal involves the removal of several other trees within the site, which has been reviewed and assessed by Council's Landscape Officer, who did not object to the application subject to conditions. As such, the proposal achieves the relevant objectives and provisions under Chapter 2.

#### 6.4. SEPP (Resilience and Hazards) 2021

##### Chapter 4 - Remediation of Land

Chapter 4 of the Resilience and Hazards SEPP requires Council to consider the likelihood that the site has been contaminated and to address the methods necessary to remediate the site.

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

#### 6.5. SEPP (Transport and Infrastructure) 2021

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

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

The application was referred to Ausgrid (the relevant electricity supply authority), who did not object to the application subject to conditions.

#### 6.6. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.3: Building height (max)	Base LEP = 9.5m With 30% AH bonus = 12.35m	Proposed = 11.91m / RL56.58	Yes
Cl 4.4: Floor space ratio (max)	Base LEP = 0.75:1 / 571sqm With 30% AH bonus = 0.975:1 / 742.5sqm	Proposed = 0.96:1 or 731.19sqm	Yes

6.6.1. *Clause 5.10 - Heritage conservation*

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

The subject site is not a heritage item and is not located in a heritage conservation area. However, the site is in proximity to heritage items at 69 Beach Street, 109 Arden Street and 370 Alison Road.

The application was referred to Council’s Heritage Planner, who is satisfied that the proposed works comply with clause 5.10 of RLEP 2012. Refer to comments from Council’s Heritage Planner in Appendix 1.

6.6.2. *Clause 6.2 – Earthworks*

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

The proposal involves substantial excavation of up to 8.8m in depth to accommodate a single basement level. The basement footprint is proposed to be setback approximately 0.57 m from the Beach Street frontage, approximately 9.5 m from the rear boundary, and between 2.1 m (north) and nil (south) from the respective side boundaries.

The extent of excavation is considered acceptable on merit. The basement level is necessary to accommodate off-street car parking, storage areas, bin storage, and mechanical services. The site exhibits a significant fall of approximately 7.79 m from the rear to the front, with the Beach Street frontage sitting roughly 2 m below the ground level at the front of the site. As a result, the basement is predominantly below natural ground level and does not contribute to the perceived building bulk.

The proposed excavation and basement arrangement are consistent with the established built form along Beach Street and align with the recently approved development DA/923/2023 at No. 68 Beach Street (currently under construction). Insisting on a reduced excavation depth would compromise the ability to provide compliant on-site car parking and associated services.

While the earthworks are acceptable from a built form perspective, it is noted that the submitted geotechnical report is a desktop study reliant on an earlier 2012 investigation and provides inconclusive findings regarding groundwater behaviour. Council’s Development Engineer has reviewed the geotechnical information from the adjoining approval under DA/923/2023 and notes that the development was not classified as integrated development. On this basis, the subject site is also unlikely to constitute integrated development.

Notwithstanding this, conditions have been included in the draft Notice of Determination requiring updated geotechnical information to be provided to ensure excavation and groundwater management are appropriately addressed and design details and certification of the suitability of the basement design prior to the commencement of works.

In this regard, the development satisfies clause 6.2(3) in that:



- Conditions of consent are imposed to minimise impact on drainage patterns, soil stability, and adjoining structures;
- The proposed excavation area is suitably scaled for the subject site and is unlikely to have an adverse impact on the likely future use or redevelopment of the land;
- The site has been used for residential purposes for an extended period of time and is unlikely to contain contaminated soil;
- Subject to conditions, the proposed excavation will not result in any adverse impact on the amenity of adjoining properties;
- Conditions of consent are imposed to manage the removal of demolition and excavation waste;
- The proposal is unlikely to disturb relics – the site is not in a heritage conservation area is and is not listed as a heritage item; and
- The scale and siting of the proposal minimises impact on waterways, water catchments, and environmentally sensitive areas.

**7. Development control plans and policies**

**7.1. Randwick Comprehensive DCP 2013**

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

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

Note: Section 149 of SEPP 65 states:

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

- (a) visual privacy,*
- (b) solar and daylight access,*
- (c) common circulation and spaces,*
- (d) apartment size and layout,*
- (e) ceiling heights,*
- (f) private open space and balconies,*
- (g) natural ventilation,*
- (h) storage.*

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

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

**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	See discussion in sections 6 & 7 and key issues below.

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

**8.1. Discussion of key issues**

Non-compliance with Building Separation Distances to the Sides and Visual Privacy

Objective 3F-1 of the ADG prescribes building separation distances to achieve reasonable levels of external and internal visual privacy, as follows:

- Up to four (4) storeys: 6m to habitable rooms, 3m to non-habitable rooms.

These distances are consistent with the minimum separations outlined under ADG Section 2F.

Part C2, Section 5.3 of RDCP 2013 seeks to achieve reasonable levels of external and internal visual privacy between windows and balconies of neighbouring development.

Section 3.4.2 of RDCP 2013 requires minimum side setbacks as follows:

- Site frontage 14m ≤ Width < 16m: 2.5m

The proposed side setbacks range from 2.58m to 7.14m on the northern side and 2.57m - 3.16m on the southern side, which comply with the DCP controls, however the proposal falls short of the ADG building separation distances.

To address potential overlooking, timber privacy screens are proposed to all side-facing windows and balconies on each level except the ground floor, which sits predominantly below existing ground level. Further details of the privacy screens were requested in Council's information request dated 15 September 2025 and submitted on 3 October 2025 (refer to Figures 7 and 8).

However, the proposed 50mm louvre spacing (with or without a 10-degree tilt) is not considered sufficient to mitigate direct sight lines, particularly as the louvre width has not been specified. The spacing would still allow oblique and, in some cases, direct views.

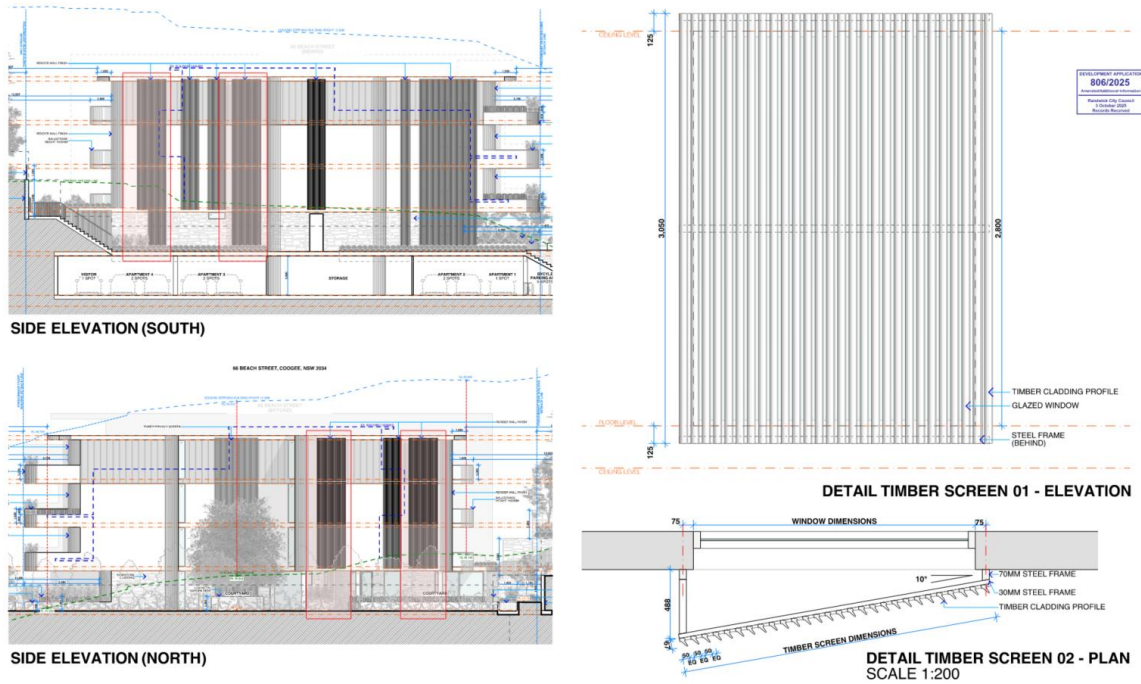
Accordingly, a condition of consent is recommended to require privacy screens of a specification that ensures adequate visual privacy for both the subject development and adjoining properties. Subject to this condition, the proposal is considered to achieve an acceptable level of visual privacy.

While the ADG prevails over the RDCP, the departure from the ADG separation distances is supported on merit for the following reasons:

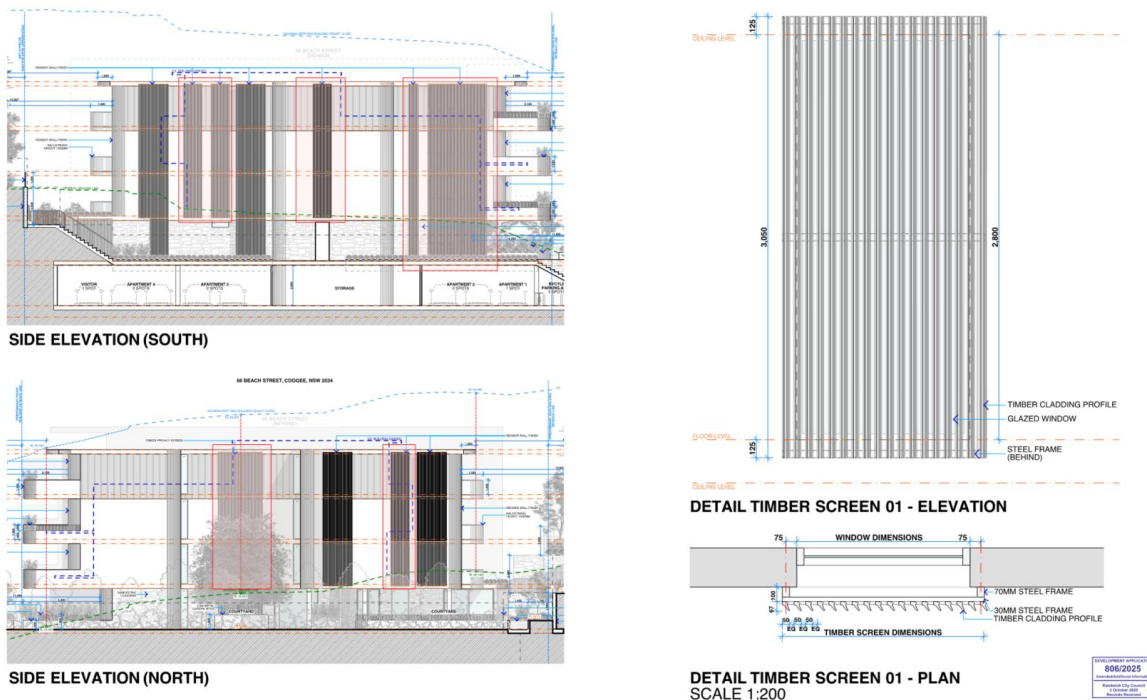
- The building façades are suitably articulated to provide visual interest and to minimise the perceived bulk and scale of the building, particularly as viewed from neighbouring properties.
- The proposal provides adequate landscaped areas, deep soil zones, and well-sized private open space areas.
- As detailed within this report, suitable visual privacy is maintained for both the subject and neighbouring properties.
- View sharing outcomes for neighbouring properties are appropriate and reasonable.
- The scale and nature of the proposal, being four (4) residential apartments, are unlikely to result in significant adverse acoustic privacy impacts and layouts orientating living areas to the street frontage (east) are consistent with the prevailing development character.
- The proposal retains adequate solar access and natural ventilation for the subject site and neighbouring properties.
- Suitable conditions are included to ensure that adequate fire safety measures are implemented in accordance with the NCC.

On this basis, the proposal is considered to satisfy the objectives of ADG Sections 2F (Building Separation) and 3F (Visual Privacy) and is acceptable on merit.

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**Figure 7: Louvre Details** (Source: Roth Architects)



**Figure 8: Louvre Details** (Source: Roth Architects)

Non-compliance with External Wall Height

Part C2, Section 4.4 of RDCP 2013 prescribes a maximum wall height of 8m for the subject site. The proposed building has a maximum wall height of 11.4m, which exceeds the numeric DCP control.

The proposal is generally consistent with the established building line of the urban block, provides a high level of façade articulation, and incorporates material diversity. The proposal adopts a flat roof, which minimises the overall building height.

Additionally, the top level has been amended to setback the development further from the Beach Street frontage, which minimises its perceived bulk as it presents as a visually recessive element in

contrast to the lower levels of the building. These design measures will minimise the visual bulk and scale of the proposed building despite non-compliance with the external wall height controls. Overall, the architectural character and form of the proposal are considered to carry positive design merit.

Furthermore, the proposal will appear as a three (3) to four (4) storey development, which is not inconsistent with the surrounding locality, which comprises development ranging from two (2) to four (4) storeys. The proposed upper level has been sited to ensure there will be no unreasonable impacts upon neighbouring dwellings in terms of overshadowing, view loss, privacy, or visual amenity.

Considering the above, numeric non-compliance is acceptable in this instance noting that the proposal remains consistent with the objectives of Section 4.4 of the DCP, as follows:

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

#### Residential Amenity of the GF Apartment

The proposed ground floor Apartment 1 is positioned predominantly below existing ground level. In the amended scheme, the internal layout has been reconfigured so that the bedrooms are located towards the western side of the building, while the courtyard (secondary private open space) is oriented to the north (refer to Figures 9 and 10). The rear landscaped area has been redesigned with a stepped arrangement, which improves solar access, natural daylight penetration and cross-ventilation to the ground-floor bedrooms.

Skylights were incorporated above the master bedroom and Bedroom 2 in Revision I to enhance sunlight penetration between 11:00am and 3:00pm during the winter solstice (refer to Figure 11), however were deleted in Revision K. A condition has been included in the draft Notice of Determination to ensure skylights are incorporated to improve the amenity of these bedrooms and the terrace within the northern side setback.

The living area and primary private open space at the front of the apartment will receive more than two hours of direct sunlight during the morning of the winter solstice, satisfying the minimum solar access requirements.

In response to the DEAP comments, three detailed sectional drawings (refer to Figures 12 and 13) have been submitted demonstrating that the outlook from the rear-facing rooms is towards landscaped garden areas, green walls and vegetation, rather than onto full-height blank walls. A condition has been included in the draft Notice of Determination to introduce dense screening planting along the stairs along the southern boundary and the retaining walls within the rear yard to ensure the privacy of Unit 1. This confirms that the apartment achieves an appropriate level of residential amenity in terms of outlook, daylight access, ventilation and visual privacy.



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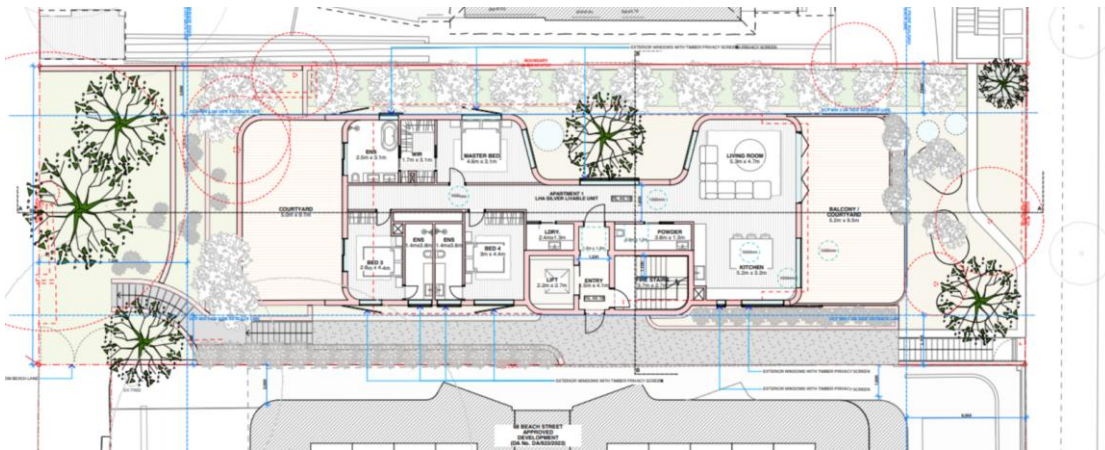


Figure 9: Ground floor plan as originally proposed (Source: Roth Architects)

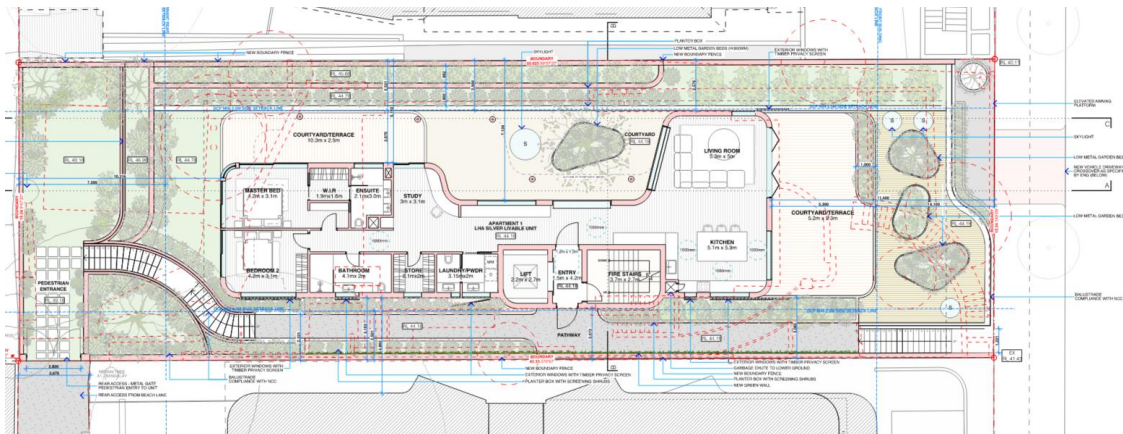


Figure 10: Ground floor plan as amended (Source: Roth Architects)

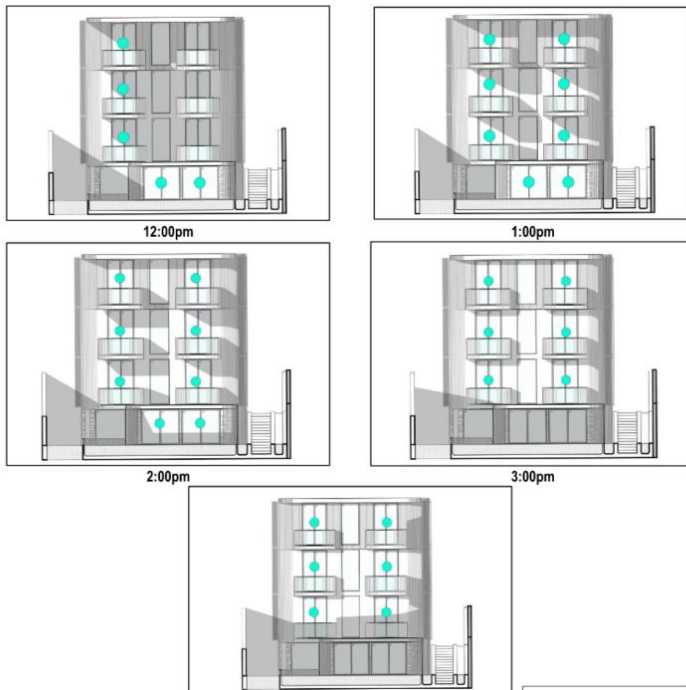


Figure 11: Solar Access to the Rear Elevation of the proposed development with the blue dot indicates solar access to windows (Source: Roth Architects)

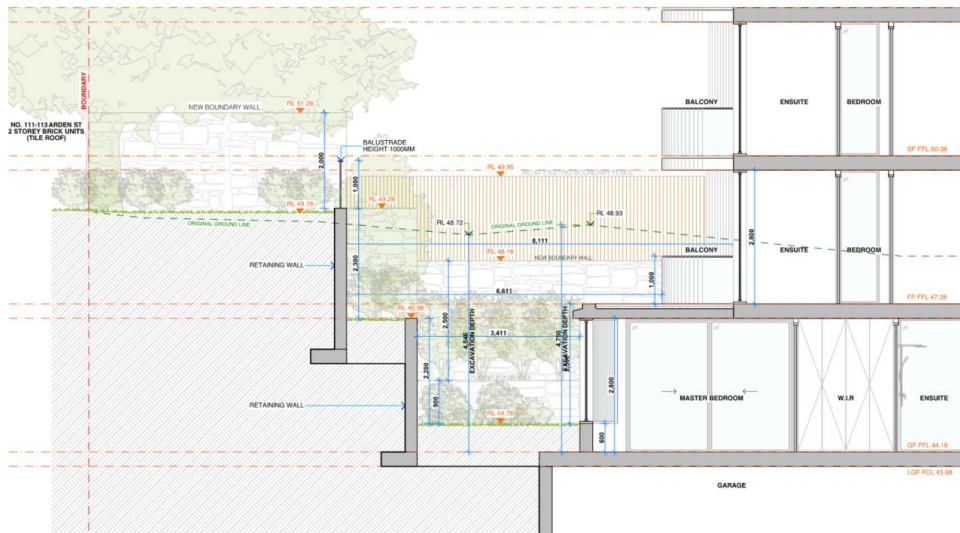


Figure 12: Detail section – rear wall (Source: Roth Architects)

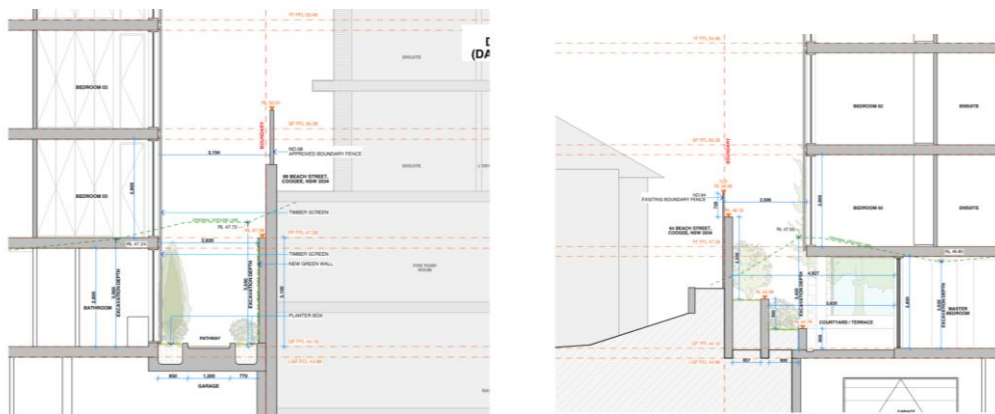


Figure 13: Detail sections – southern (left) and northern (right) wall (Source: Roth Architects)  
Solar Access Impact to the Southern Adjoining Property at No.68

Pursuant to Objective 4A-1 of the ADG, at least two (2) hours of direct sunlight should be provided to living areas and private open spaces of apartments in a building between 9am and 3pm at mid-winter.

The approved apartments at No. 68 Beach Street (currently under construction) generally locate the living rooms and balconies of the rear units in the south-western corner, enclosed by solid walls to the north. The front units orient their living areas and balconies to the east. Given the location and orientation of the rear units' primary living spaces and private open space, these areas have no interface with the subject proposal and will not be impacted by the development.

While the solar access analysis table (Figure 14) submitted by the applicant contains errors in the total number of hours calculated, the hourly solar access values are correct and consistent with the submitted shadow diagrams. The assessment relies on the diagrammatic analysis rather than the summary table.

The elevation shadow diagrams (Figures 14-16) demonstrate that the proposal results in minor additional overshadowing to the lower-level front units (Units 1, 2 and 4) at No. 68 Beach Street. The top-floor apartment (Unit 6, Level 3) will remain unaffected and continues to receive uninterrupted solar access between 9am and 3pm at mid-winter.

Unit 4 (Level 2) at No. 68 Beach Street continues to meet the minimum requirement of two hours of direct sunlight at mid-winter, receiving more than 50% sunlight to its living room glazing from 12pm–2pm, with additional intermittent sunlight between 9am–12pm and 2pm–3pm.

Units 1 (Ground Floor) and 2 (Level 1) of No. 68 Beach Street will achieve only 1 hour direct sunlight to the east facing and north facing living area windows from 9am-10am at mid-winter, which does not comply with the minimum requirements.

A detailed assessment on the solar access received by Units 1 (GF) and 2 (L1) are carried out as follows:

- Solar impact on Units 1 & 2 of no.68 from the existing development at the subject site

A detailed review of the solar analysis provided by the objector (Figures 18 & 19) indicates discrepancies in the objector's solar assessment. In accordance with the planning principles for solar access, *for a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself.* The objector's table counted very small areas of sunlight at 10am and 11am as "sunlight hours," which is misleading and inconsistent with the planning principle.

However, the objector's sun-eye perspective diagrams (Figures 18 & 19) are generally consistent with the applicant's elevation shadow diagrams (Figure 17). Both sets of diagrams confirm that Units 1 and 2 at No. 68 do not achieve the minimum 2 hours of solar access between 9am and 3pm at mid-winter under existing conditions. Sunlight is limited to approximately 9am–10am, after which both units remain fully in shadow.

- Solar impact on Units 1 & 2 of no.68 from the proposed development at the subject site

Under the proposed scheme (Figures 14-16), Units 1 and 2 continue to receive 1 hour of sunlight between 9am–10am at mid-winter. The proposal does not reduce the total number of hours of sunlight to either unit. Instead, it marginally reduces the amount of window area receiving sun within that hour:

- Unit 1 (GF) of no.68:
  - At 9am: sunlight reduces from three full-height windows to two.
  - At 10am: sunlight reduces from one window to almost none.
- Unit 2 (L1) of no.68:
  - At 9am: sunlight reduces from full-window exposure to approximately 50% of one window.
  - At 10am: sunlight reduces from almost entirely in shadow to entirely in shadow.

These reductions represent minor changes to an already non-compliant solar access condition. The proposal does not alter the fundamental inability of Units 1 and 2 to meet the ADG minimum requirement.

While the quantitative requirement is not met within the prescribed assessment period, it is noted that both units receive more than 50% direct sunlight to the living room glazing between 8am and 9am. This earlier period, although outside the standard assessment window, demonstrates that the units have access to some morning solar amenity despite the site constraints.

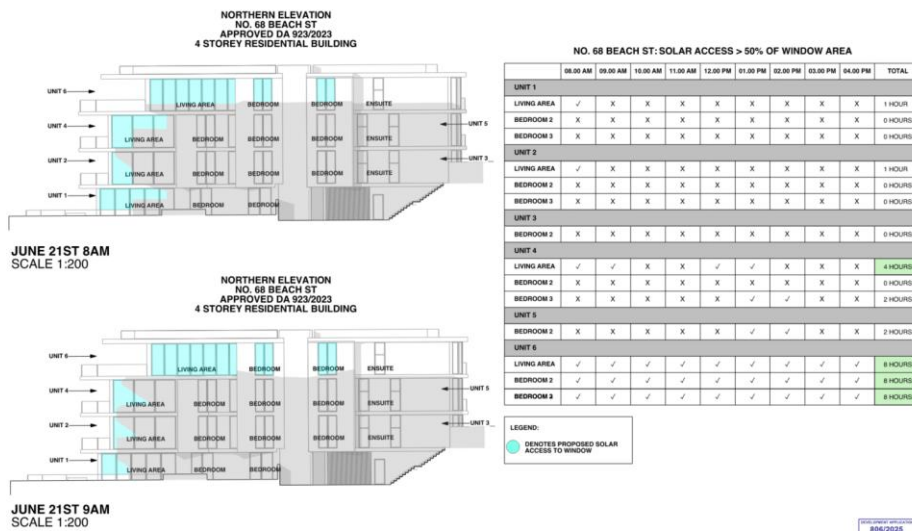
The limited solar access to Units 1 and 2 arises predominantly from the site's physical context rather than the design of the proposed development. The subdivision pattern along the western side of Beach Street results in properties facing southeast to the street and northwest to the rear. This orientation inherently restricts mid-winter solar access to the southern adjoining properties, particularly at lower levels.

The proposal complies with the height and FSR standards and provides reasonable southern setbacks of 2.5m to circulation areas and more than 3m for the majority of the building depth. Additionally, the proposal has been amended to increase the front setback on the top floor to 11.05m, further reducing potential overshadowing to No. 68.

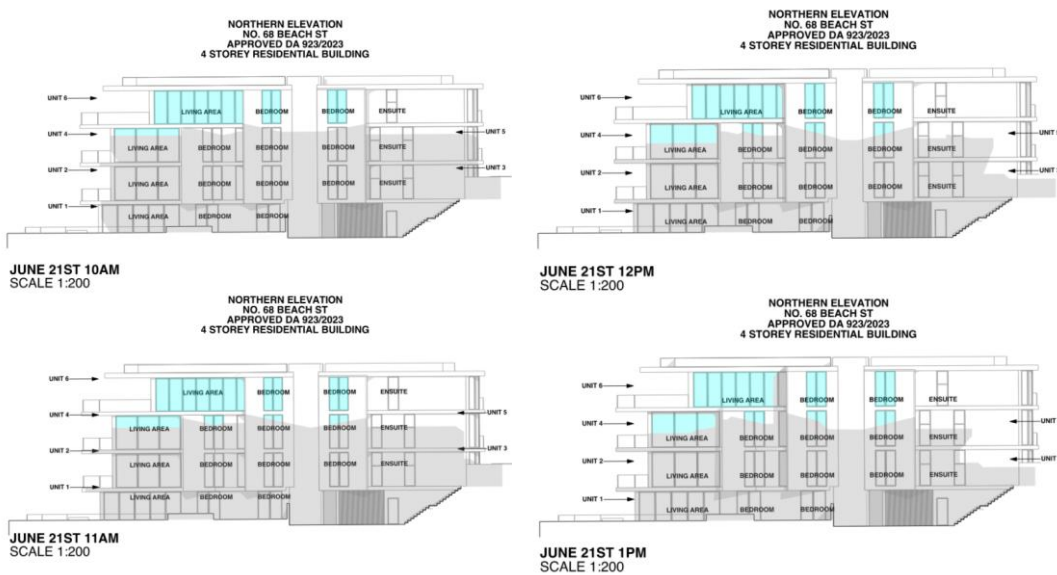
When considered against the applicable planning principles for solar access, the overshadowing impact arises predominantly from the orientation and urban form of the locality. In this context, the proposal maintains an acceptable level of solar access relative to what can reasonably be achieved



on sites with this orientation, and the impact is considered to be within the expectations for apartments at lower levels of a medium-density development along Beach Street.



**Figure 14:** Elevation Shadow diagrams of no.68 at 8am - 9am & Solar Access Analysis Table (Source: Roth Architects)



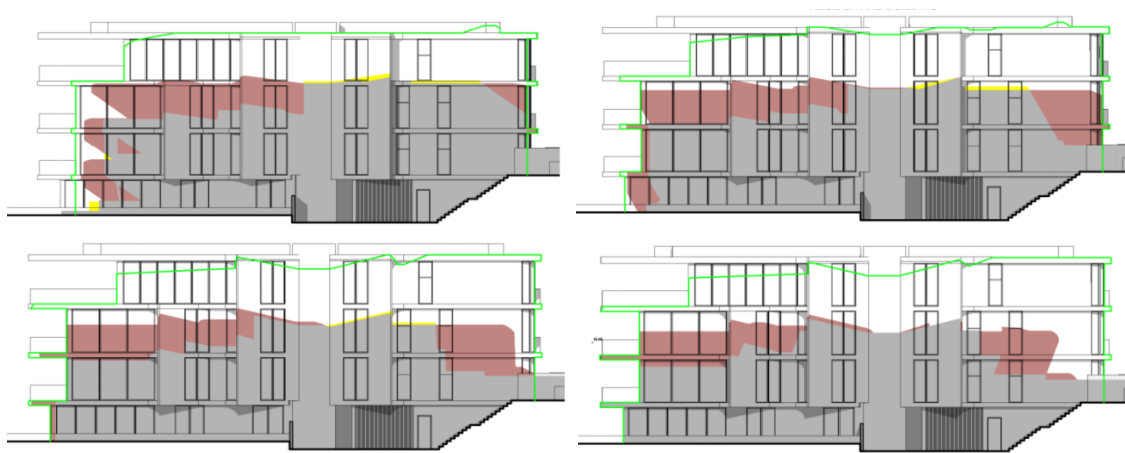
**Figure 15:** Elevation Shadow diagrams of no.68 at 10am – 1pm (Source: Roth Architects)

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**Figure 16:** Elevation Shadow diagrams of no.68 at 1pm – 3pm (Source: Roth Architects)



**Figure 17:** Elevation shadow diagrams of no.68 at 8am–11am submitted for the original scheme, where grey indicates existing shadowing and red indicates additional shadow cast by the development as originally proposed. (Source: Cad DraftP/L)

Note: The shadow impacts have been reduced in the latest scheme, which is the design currently under assessment. These reduced impacts are clearly illustrated in the updated elevation shadow diagrams presented in Figures 14 to 16.



68 BEACH STREET COOGEE - SOLAR ANALYSIS

LEVEL	UNIT	POS. (21st JUNE)							EVENING (21st JUNE)											
		9AM	10AM	11AM	12PM	1PM	2PM	3PM	4PM	5PM	6PM	7PM	8PM	9PM	TOTAL					
GROUND FLOOR	1																			
FIRST FLOOR	2																			
SECOND FLOOR	3																			
THIRD FLOOR	4																			
	5																			
	6																			
	7																			
	8																			

ORIENTATED TOWARDS OCEAN VIEW  
ORIENTATED TOWARDS OCEAN VIEW

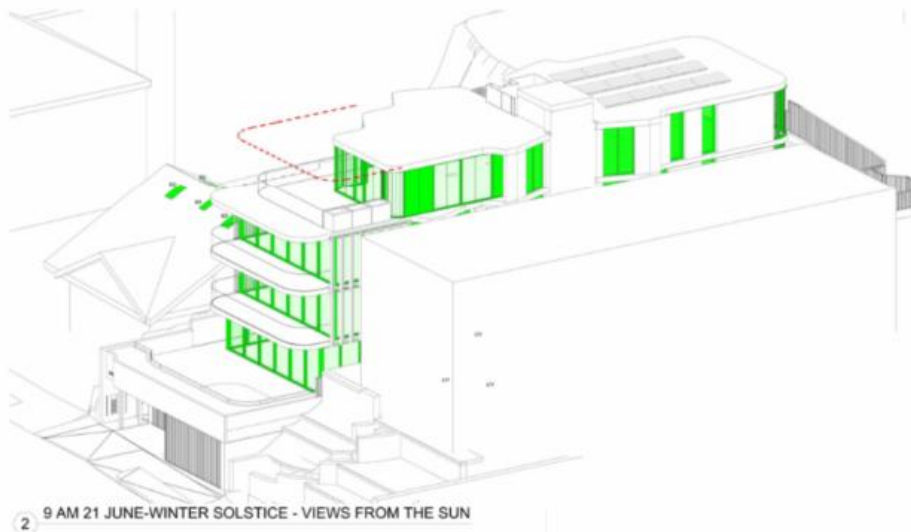
WALL  
WINDOW

COMPLIANT

NO WALL  
WINDOW

NON  
COMPLIANT

40%  
COMPLIANT



**Figure 18:** Sun eye view of no.68 at 9am and solar analysis provided by the objector (Source: Orosi)



**Figure 19:** Sun eye view of no.68 at 10am and 11am and solar analysis provided by the objector (Source: Orosi)

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## Housing and Productivity Contribution

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

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

**Residential development means:**

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

**Medium or high-density development means:**

- (a) *Attached dwellings,*
- (b) *Build-to-rent housing,*
- (c) *Dual occupancy;*
- (d) *Multi-dwelling housing,*
- (e) *Residential flat building,*
- (f) *Semi-detached dwellings,*
- (g) *Seniors living (independent living units),*
- (h) *Shop top housing.*

As the proposed development results in an increase in the number of dwellings on the site, the HPC is applicable in this instance and a condition has been imposed within the draft Notice of Determination.

## 9. Conclusion

That the application to demolition of existing structures and construction of a new four (4) storey residential flat building with basement level, comprising four (4) dwellings including one (1) affordable housing dwelling, seven (7) car parking spaces, associated ancillary works, landscaping and earthworks be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the objectives contained within the Housing SEPP.
- The proposal is consistent with the specific objectives of the R3 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- Non-standard conditions have been included regarding detailed geotechnical report, revised privacy screens, side and rear fencing details and landscaping treatment of the access handle.

## Appendix 1: Referrals

### 1. Design Excellence Panel Comments

#### **PANEL COMMENTS & RECOMMENDATIONS**

- 1. The Panel discussed the overall building massing strategy and offers in-principle support for the general approach. Council's assessment planners advised there was a floor space ratio exceedance, however, this may have been addressed in the updated set of plans (not seen by the Panel). Should a reduction in floor area be required the Panel recommends this occur by setting back the top level to reduce built form presence of the top floor on Beach Street and the R2 low-density dwellings opposite the site.*
- 2. The Panel expressed concern regarding the extent of subterranean spaces within the Ground Floor and part of the First Floor apartments (western extent). The quality of outlook, daylight access and natural ventilation in these apartments needs to be better expressed. The applicant should demonstrate that acceptable levels of residential amenity can be achieved, supported by at least three short cross-sections across the site showing excavation depths and height co-relationships to adjoining properties.*
- 3. The Panel noted that the pedestrian entry from Beach Street is a key pressure point. Reliance solely on a flight of stairs for entry is not considered ideal from an accessibility perspective, nor a 'sense of arrival' experience for such generous and high-value dwellings. Given that the proposal contains only four dwellings the Panel is open to a barrier-free pedestrian entry via the Lower Ground Floor/Basement level, provided it delivers an improved and more welcoming arrival gesture and experience (i.e. improved lighting, materiality, expression and wayfinding). The applicant should liaise with Council to confirm the acceptability and details of this arrangement and mitigation of potential conflicts with vehicles.*
- 4. The Panel observed potential overshadowing impacts to the adjoining property at 68 Beach Street. A more detailed solar access and shadow analysis for the winter solstice should be prepared for Council's review.*
- 5. In terms of architectural form and expression, the Panel notes that the current roof design and section drawings do not appropriately address drainage cross-falls. Further refinement of the roof form is recommended to resolve potential drainage issues and enhance architectural character.*
- 6. The Panel recommends the applicant confirm whether the existing Eucalypts (Tree A) at the rear on the adjoining property can be genuinely retained, as the current stair configuration appears to encroach upon the required tree protection zone. Any works within TPZs and SRZs must follow the Tree Protection Measures outlined in the Arboricultural Impact Assessment report.*
- 7. The landscape design should include a mix of native species with varied canopy sizes (small, medium and large). The applicant should also confirm soil depths across all landscaped areas, ensuring compliance with NSW Apartment Design Guide (ADG) Parts 4O and 4P to support viable planting. Where planting is being used to provide privacy, suitable screening species should be used e.g. for the planter on the southern side of the ground floor apartment kitchen.*
- 8. The Landscape Area and Deep Soil Area calculations should be consistent between the architectural and the landscape plans.*

#### **CONCLUSION**

- 1. The Panel supports the general architectural direction of the proposal but considers several matters require further resolution. These include amenity concerns for subterranean apartments, the accessibility and quality of pedestrian entry, and mid-winter overshadowing impacts on neighbours and tree protection issues.*

2. *The proposal would benefit from additional technical documentation and design refinement to demonstrate compliance with ADG principles and ensure a high-quality residential outcome consistent with the character of Beach Street.*

## 2. Internal referral comments:

### 2.1. Heritage planner

#### **Comments**

*It appears that the proposal does not have any adverse impact on the heritage item and is consistent with B2 Heritage section of RDC.*

#### **Recommendation**

*Supported from a heritage perspective, no further condition is required.*

### 2.2. Development Engineer

#### **General Comments**

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

#### **Drainage Comments**

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

*The stormwater must be discharged (by gravity) directly into Council's underground drainage system located in Beach Street via a new kerb inlet pit.*

*Development Engineering does not support the proposed stormwater connection pipe along Council's footpath due to its impact on preventing accessibility for the neighbouring properties. A suitable condition has been included to address the discharge of stormwater in Council's drainage network.*

*Due to the location of the site within Council's "On-Site Detention Map" (refer to Appendix A of Council's "Private Stormwater Code") an onsite stormwater detention (OSD) system is not required for the proposed development.*

#### **Flooding Comments (not impacted)**

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

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

#### **Parking Comments**

**Assessment Under SEPP(Housing) 2021 (To be used if any of units are to be dedicated as affordable housing)**

*Parking Requirements for the future development have been assessed as per the following applicable parking rates specified in Part 2 Division 1 Clause 19 of the SEPP (Housing) 2021 being non-discretionary development standards:*

- (e) *the following number of parking spaces for dwellings used for affordable housing—*
  - (i) *for each dwelling containing 1 bedroom—at least 0.4 parking spaces,*
  - (ii) *for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,*

- (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,  
 (f) the following number of parking spaces for dwellings not used for affordable housing—  
 (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,  
 (ii) for each dwelling containing 2 bedrooms—at least 1 parking space,  
 (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,

Parking required under SEPP =  $(3 \times 1.5) + (1 \times 0.5) + 4/4$  (visitor)  
 = 6 spaces  
 Parking proposed = 7 spaces (compliant)

Parking requirements for motorbike and bicycle parking will be assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013.

#### Motorbike Parking

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

Motorbike Parking Required =  $0.05 \times 7$   
 = 0.35  
 = 0

Motorbike Parking proposed = 0 (compliant)

#### Bicycle Parking

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

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

Bicycle Parking proposed = 5 (compliant)

#### Carpark Layout

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

#### **Undergrounding of site feed power lines**

At the ordinary Council meeting on the 27<sup>th</sup> May 2014 it was resolved that;

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

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

#### **Waste Management Comments**

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

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

The plan shall detail the type and quantity of waste to be generated by the development; demolition waste; construction waste; materials to be re-used or recycled; facilities/procedures for the storage,



collection recycling & disposal of waste and show how the on-going management of waste for the units will operate.

Comments on the number of Waste Bins

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

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

There are no specific requirements for green waste in Part B6 of the DCP however since March of 2021 Council has introduced a Garden Organic Food organic (FOGO) collection service. As some landscape areas are also proposed it is recommended that a minimum of 2 x 240L bins also be provided for FOGO.

Total Number of bins required = 2 (normal) + 2 (recycling) + 2 (FOGO)  
= 6 x 240L bins

Bins proposed = 6 x 240L bins (compliant)

### 2.3. Landscape Officer

#### Landscape Comments

Inspection was undertaken through google street view on Monday 10<sup>th</sup> November 2025 with pictures of all vegetation on D05811825 & D05811859.

Centrally adjacent frontage of subject site, semi mature *Hibiscus tiliaceus* 'Rubra' (Bronze Cottonwood **C**) 5 metres high, good health and condition, co dominant at base which two separate trunks splay north and south, partially lopped under power lines, measuring 2300mm with northern frontage proposed new crossover, second semi mature *Hibiscus tiliaceus* 'Rubra' (Bronze) north of power pole, adjacent southern aspect of northern neighbouring No.64 property both to be protected from physical and mechanical damage

Within frontage raised garden a mature *Plumeria acutifolia* (Frangipani **T4**) 5 metres high, good health and condition, not significant to retain, can be replanted elsewhere if applicant needs, in direct conflict with frontage works, **to be removed.**

Staying within frontage area, *Grevillea hybrid*, in good health and condition, with some remaining small shrubs and vegetation, all insignificant, in direct conflict with frontage works, **to be removed.**

Wholly within northern neighbouring No.64, Lilly Pilli hedge (**TB**) 2 metres high, good health and condition, not in direct conflict with works, pruning maybe applied so to protect from physical or mechanical damage.

Moving within northern rear side setback, mature *Persea americana* (Avocado **T3**) 8 metres high, good health and condition, fruit tree, near boundary fence, not significant to retain, retaining would see removal of its southern aspect crown to accommodate the proposed new dwelling, this would leave species unbalanced and aesthetically unpleasing to the eye, may cause balance issues down the track, with these factors, **the species can be removed.**

Plotted with rear of property, Mature *Cinnamomum camphora* (Camphor Laurel **T1**) 12 metres high, good health and condition, been lopped in past, 3m low branches over car port, 3.8m SRZ, 14m TPZ, Arborist assessment detailed large buttresses with roots lifting bitumen.

The species has been around 1970-1980's, with age in consideration, amenity landscape value and aesthetics, no obvious signs of decline, clear of development works, proposed landscaping the only works near tree, nothing would warrant its removal as part of this development works, there's just no direct relationship between the proposed works and the need to remove it, **so this species will be retained and protected.**

Conditions will be applied within this report, that all existing concrete, sheds, carports, **must be hand demolished**, minimal uplifting of lower lateral branches will protect **T1** from mechanical and physical injury, additional protection battens, and metal fencing must be applied for addition protection, all of these factors will retain the tree for future residents to enjoy.

Centrally positioned in rear yard, 2 x mature *Syagrus romanzoffianum* (Cocos Palm **T2**) good health, fair condition, exempt species as listed as undesirable species under 2013 B5 DCP, **must be removed**.

Moving wholly within southern No.70 neighbouring property, mature *Eucalyptus botryoides* (Bangalay **TA**) good health and condition low branches over western laneway, which may need pruning from mechanical injuries.

While the species has 3.0m SRZ, which protrudes significantly within subject site, root protection fencing will be applied within this report, it's SRZ must be kept as undisturbed deep soil, additional protections are also applied within Appendix A4, Arborists Assessment Report.

Note: The *Eucalyptus botryoides* (Bangalay **TA1**) within neighbouring property, has been removed from site.

**An assessment against the C1 DCP 2023 controls with a site area of 601sqm or above revealed that compliance is achieved with:**

- Clause 2.5: Site coverage/deep soil (47.8% achieved, minimum 45% required)
- Clause 2.5: Minimum of 25% of front setback area is planted out.
- Clause 2.6: Native species. The plant schedule does meet the minimum 60% native species target, to comply with this control
- Clause 2.6: Canopy cover. The DCP requires that canopy cover amounting to a minimum 25% of the total site area must be achieved within 10 years, with existing rear tree species and multiple proposed tree species with landscaping Plan, the canopy cover now complies.

#### 2.4. Environmental Health Officer

##### Comments:

Land contamination:

No history of previous land contamination regarding the premises. The site is going from residential to residential and does not trigger the State Environmental Planning Policy (Resilience and Hazards) 2021.

Noise:

An acoustic report was provided to Council prepared by Renzo Tonin & Associates dated 21 February 2025 reference: TP462-01F02.

The report concludes that with the recommendation provided the external noise intrusion to the premises will comply with the relevant standards.

The report goes on and states that the location of the mechanical plant/equipment is unknown, and further acoustic assessment will need to be undertaken during the design phase of the development.

#### 2.5. Building Surveyor

Referral comments were not received till the date the report was written. Nevertheless, standard BCA conditions have been included in the draft Notice of Determination.

**Appendix 2: DCP Compliance Table**

Part B4: Landscaping and Biodiversity

Council is satisfied that the proposed development meets the landscape requirements in accordance with Part B4 of RDCP 2013. Refer to detailed assessment by Council's Landscape Officer at Appendix 1.

Part B6: Recycling and Waste Management

Council is satisfied that the proposed development meets the waste requirements in accordance with Part B6 of RDCP 2013. Refer to detailed assessment by Council's Development Engineer at Appendix 1.

Part B7: Transport, Traffic, Parking and Access

Council is satisfied that the proposed development meets the parking requirements in accordance with Part B7 of RDCP 2013. Refer to detailed assessment by Council's Development Engineer at Appendix 1.

Part B8: Water Management

Council is satisfied that the proposed development meets the water management requirements in accordance with Part B8 of RDCP 2013. Refer to detailed assessment by Council's Development Engineer at Appendix 1.

**Section C2: Medium Density Residential**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>2.</b>	<b>Site Planning</b>		
<b>2.2</b>	<b>Landscaped open space and deep soil area</b>		
<b>2.2.1</b>	<b>Landscaped open space</b>		
	A minimum of 50% of the site area (380.77m <sup>2</sup> ) is to be landscaped open space.	Proposed = 423.38sqm / 55.5%	Yes
<b>2.2.2</b>	<b>Deep soil area</b>		
	(i) A minimum of 25% of the site area (190.385m <sup>2</sup> ) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	Proposed = 194.36sqm / 25.5%  It is noted that the RDCP 2013 does not prescribe a minimum width for deep soil areas and instead requires a minimum of 25% of the site to be provided as deep soil. By contrast, the ADG includes minimum width requirements of 3 metres and a minimum area of 7%. When assessed against the DCP definition, the proposal achieves a greater amount of deep soil area than would be calculated under the ADG and	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
		<p>satisfies the 25% requirement.</p> <p>Notwithstanding the differing calculation methods, the proposal meets the objectives of the control by providing deep soil zones capable of supporting the healthy growth of large canopy trees, retaining existing mature vegetation where possible, and enhancing on-site stormwater infiltration.</p>	
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	Complies	Yes
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understory planting.	Complies	Yes
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	Complies	Yes
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Complies	Yes
<b>2.3</b>	<b>Private and communal open space</b>		
<b>2.3.1</b>	<b>Private open space</b>		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.	Complies	Yes
	<b>For residential flat buildings:</b> (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling.	Complies	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(vii) Private open space for apartments has a minimum area of 8m <sup>2</sup> and a minimum dimension of 2m.		
<b>2.3.2</b>	<b>Communal open space</b>		
	Communal open space for residential flat buildings is to be: <ul style="list-style-type: none"> <li>(a) Of a sufficient contiguous area, and not divided up for allocation to individual units.</li> <li>(b) Designed for passive surveillance.</li> <li>(c) Well oriented with a preferred northerly aspect to maximise solar access.</li> <li>(d) adequately landscaped for privacy screening and visual amenity.</li> <li>(e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.</li> </ul>	Nil proposed – acceptable on merit noting that suitably sized private open space is provided for each unit. The site is in close proximity to public spaces, including Coogee Beach.	On merit
<b>3. Building Envelope</b>			
<b>3.3</b>	<b>Building depth</b>		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	All apartments are provided with suitable natural ventilation and solar access.	Yes
<b>3.4</b>	<b>Setbacks</b>		
<b>3.4.1</b>	<b>Front setback</b>		
	<ul style="list-style-type: none"> <li>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</li> <li>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</li> <li>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</li> <li>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</li> </ul>	Proposed = 6.1m Consistent with DA/923/2023 on its southern adjoining property	Yes
<b>3.4.2</b>	<b>Side setback</b>		



DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p><b>Residential flat building</b></p> <p>(i) Comply with the minimum side setback requirements stated below:                      - 14m ≤ site frontage width &lt; 16m: 2.5m</p> <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:                      - Create articulations to the building facades.                      - Reserve open space areas and provide opportunities for landscaping.                      - Provide building separation.                      - Improve visual amenity and outlook from the development and adjoining residences.                      - Provide visual and acoustic privacy for the development and the adjoining residences.                      - Ensure solar access and natural ventilation for the development and the adjoining residences.</p> <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	<p>Northern side = 2.58m – 7.14m                      Southern side = 2.57m - 3.16m</p>	<p>Yes</p>
<b>3.4.3</b>	<b>Rear setback</b>		
	<p>For residential flat buildings, provide a minimum rear setback of 15% of allotment depth (7.5m) or 5m, whichever is the greater.</p>	<p>Rear (western) = 10.32m (ground floor) to 12.04m (upper levels)</p>	<p>Yes</p>
<b>4. Building Design</b>			
<b>4.1 Building façade</b>			
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</p> <p>(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street.</p>	<p>The proposed building façade design is considered suitable. The façades are suitably articulated by way of varying materials, recessed elements, and window/balcony openings.</p>	<p>Yes</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs.		
<b>4.2</b>	<b>Roof design</b>		
	(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"> <li>- There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences.</li> <li>- The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences.</li> </ul>	The proposed flat roof design is acceptable as it has been designed to reduce the perceived bulk and scale of the building. The roof form is consistent with other medium density dwellings and RFBs in the locality.  No roof terraces are proposed.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street.</li> <li>- Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building.</li> </ul> <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>		
<b>4.3</b>	<b>Habitable roof space</b>		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> <li>- Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation.</li> <li>- Has a maximum floor space of 65% of the storey immediately below.</li> <li>- Wholly contain habitable areas within the roof space.</li> <li>- When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement.</li> <li>- Design windows to habitable roof space as an integrated element of the roof.</li> <li>- Submit computer generated perspectives or photomontages showing the front and rear elevations of the development.</li> </ul>	No habitable roof space is proposed.	N/A
<b>4.4</b>	<b>External wall height and ceiling height</b>		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	Refer to discussion at Key Issues section of this report.	On merit
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Proposed = 2.8m	Yes
<b>4.5</b>	<b>Pedestrian Entry</b>		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Complies	Yes
	<p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> <li>- Locate building entries so that they relate to the pedestrian access network and desired</li> </ul>	Complies	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>lines.</p> <ul style="list-style-type: none"> <li>- Design the entry as a clearly identifiable element in the façade composition.</li> <li>- Integrate pedestrian access ramps into the overall building and landscape design.</li> <li>- For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible.</li> <li>- Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary).</li> <li>- Provide weather protection for building entries.</li> </ul> <p>Postal services and mailboxes</p> <ul style="list-style-type: none"> <li>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</li> <li>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</li> <li>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</li> </ul>		
<b>4.6</b>	<b>Internal circulation</b>		
	<ul style="list-style-type: none"> <li>(i) Enhance the amenity and safety of circulation spaces by:                             <ul style="list-style-type: none"> <li>- Providing natural lighting and ventilation where possible.</li> <li>- Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors.</li> <li>- Allowing adequate space for the movement of furniture.</li> <li>- Minimising corridor lengths to give short, clear sightlines.</li> <li>- Avoiding tight corners.</li> <li>- Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor.</li> </ul> </li> </ul>	Complies	Yes
	<ul style="list-style-type: none"> <li>(ii) Use multiple access cores to:                             <ul style="list-style-type: none"> <li>- Maximise the number of pedestrian entries along a street for sites with wide</li> </ul> </li> </ul>	Complies	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	frontages or corner sites. <ul style="list-style-type: none"> <li>- Articulate the building façade.</li> <li>- Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units.</li> </ul>		
4.7	<b>Apartment layout</b>		
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	Complies	Yes
	(i) Maximise opportunities for natural lighting and ventilation through the following measures: <ul style="list-style-type: none"> <li>- Providing corner, cross-over, cross-through and double-height maisonette / loft apartments.</li> <li>- Limiting the depth of single aspect apartments to a maximum of 6m.</li> <li>- Providing windows or skylights to kitchen, bathroom and laundry areas where possible.</li> </ul> Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.	Complies	Yes
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	Complies	Yes
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Complies	Yes
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	Complies	Yes
4.8	<b>Balconies</b>		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m <sup>2</sup> and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	Each unit is provided with a balcony greater than 8m <sup>2</sup> in area.	Yes
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m <sup>2</sup> . All ground floor apartments are to have direct access to a terrace.	Suitably sized terraces and landscaped planters are provided to the apartment at ground floor level.	Yes
4.9	<b>Colours, materials and finishes</b>		



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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> <li>- Changes of colours and surface texture</li> <li>- Inclusion of light weight materials to contrast with solid masonry surfaces</li> <li>- The use of natural stones is encouraged.</li> </ul> <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> <li>- Reflective wall cladding, panels and tiles and roof sheeting</li> <li>- High reflective or mirror glass</li> <li>- Large expanses of glass or curtain wall that is not protected by sun shade devices</li> <li>- Large expanses of rendered masonry</li> <li>- Light colours or finishes where they may cause adverse glare or reflectivity impacts</li> </ul> <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>	<p>The proposed colours, materials, and finishes are generally suitable.</p>	<p>Yes</p>
<b>4.12 Earthworks Excavation and backfilling</b>			
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	<p>The proposal involves excavation works up to 8.8m depth to accommodate a basement level for car parking, residential storage, services, and bin storage.</p> <p>The proposed basement has been suitably designed to reduce the perceived bulk and scale of the building and to maximise opportunities for deep soil planting.</p>	<p>On merit – refer to detailed assessment above.</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p><b>Retaining walls</b></p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	<p>The proposal involves significant retaining walls terracing at the rear in response to the proposed excavation.</p> <p>The retaining walls do not exceed 2.2m measured from the existing ground level.</p>	<p>On merit</p>
<b>5. Amenity</b>			
<b>5.1 Solar access and overshadowing</b>			
<b>Solar access for proposed development</b>			
	(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.	Suitable solar access will be provided to living rooms and POS areas.	Yes
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	All units will receive at least three (3) hours of solar access to living rooms and POS areas.	Yes
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	There are no proposed units with a single, south aspect.	Yes
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	Not applicable.	N/A
<b>Solar access for surrounding development</b>			
	<p>(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.</p> <p>(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.</p> <p>(iii) Where existing development currently receives less sunlight than this</p>	<p>Noting that ADG control requires 2 hours from 9am to 3pm on 21 June and prevails over DCP control.</p> <p>Refer to discussion at Key Issues section of this report.</p>	<p>On merit</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	requirement, the new development is not to reduce this further.		
<b>5.2</b>	<b>Natural ventilation and energy efficiency</b>		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	Complies	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Complies	Yes
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	Complies	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	Complies	Yes
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	Complies	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Complies	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	Complies	Yes
<b>5.3</b>	<b>Visual privacy</b>		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.	Refer to discussion at Key Issues section of this report.	Yes
	(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.		
	(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>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"> <li>- Translucent glazing</li> <li>- Fixed timber or metal slats</li> <li>- Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings</li> <li>- Screen planting and planter boxes as a supplementary device for reinforcing privacy protection</li> </ul>		
<b>5.4 Acoustic privacy</b>			
	<p>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</p> <p>(ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such as:</p> <ul style="list-style-type: none"> <li>- Double glazing</li> <li>- Operable screened balconies</li> <li>- Walls to courtyards</li> <li>- Sealing of entry doors</li> </ul>	<p>The proposed development, comprising four (4) residential units, is unlikely to result in significant adverse noise.</p>	<p>Yes</p>
<b>5.5 View sharing</b>			
	<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>The subject site and surrounding properties enjoy views to Gordons Bay to the front (east) and distant ocean views to the southeast.</p> <p>It is noted that the proposed building will be lower in height than the existing structure, and the side setbacks are either maintained or increased.</p> <p>While the new building envelope extends further towards both the front and rear boundaries compared with the</p>	<p>Yes</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</p>	<p>existing development, the submitted view analysis demonstrates that any resulting impacts are minimal and considered reasonable in the context of the surrounding urban environment.</p>	



VIEW FROM 3/111-113 ARDEN ST TO EXISTING 66 BEACH ST



VIEW FROM 3/111-113 ARDEN ST TO PROPOSED 66 BEACH ST



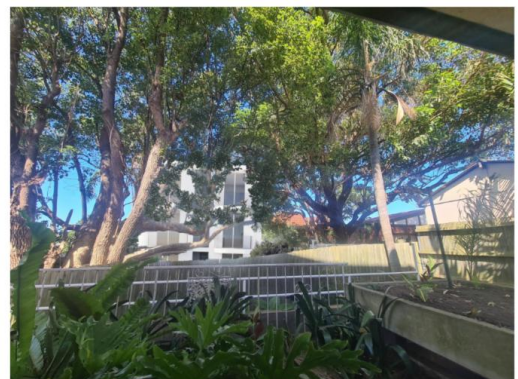
VIEW FROM 3/111-113 ARDEN ST TO EXISTING 66 BEACH ST



VIEW FROM 3/111-113 ARDEN ST TO PROPOSED 66 BEACH ST








VIEW FROM 3/111-113 ARDEN ST TO EXISTING 66 BEACH ST



VIEW FROM 3/111-113 ARDEN ST TO PROPOSED 66 BEACH ST





DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	 <p data-bbox="395 645 635 680">VIEW FROM 3/111-113 ARDEN ST TO EXISTING 66 BEACH ST</p>  <p data-bbox="395 1115 639 1160">VIEW FROM 9/111-113 ARDEN ST TO EXISTING 66 BEACH ST</p>  <p data-bbox="395 1570 644 1615">VIEW FROM 9/111-113 ARDEN ST TO EXISTING 66 BEACH ST</p>	 <p data-bbox="954 645 1193 680">VIEW FROM 3/111-113 ARDEN ST TO PROPOSED 66 BEACH ST</p>  <p data-bbox="954 1115 1203 1160">VIEW FROM 9/111-113 ARDEN ST TO PROPOSED 66 BEACH ST</p>  <p data-bbox="954 1570 1198 1615">VIEW FROM 9/111-113 ARDEN ST TO PROPOSED 66 BEACH ST</p>	

**Figure 20: View Analysis – Unit 3, 111-113 Arden Street (Source: Roth Architects)**

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  <p>VIEW FROM 9/111-113 ARDEN ST TO EXISTING 66 BEACH ST</p> </div> <div style="text-align: center;">  <p>VIEW FROM 9/111-113 ARDEN ST TO PROPOSED 66 BEACH ST</p> </div> </div> <p><b>Figure 21: View Analysis – Unit 9, 111-113 Arden Street (Source: Roth Architects)</b></p>		
<b>5.6</b>	<b>Safety and security</b>		
	(i) Design buildings and spaces for safe and secure access to and within the development.	Complies	Yes
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Complies	Yes
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	Complies	Yes
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	Complies	Yes
	(vi) Resident car parking areas must be equipped with security grilles or doors.	Complies	Yes
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	Complies	Yes
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Complies	Yes
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Complies	Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Complies	Yes



DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	Complies	Yes
<b>6. Car parking and access</b>			
<b>6.1</b>	<b>Location</b>		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	The proposed basement car park is accessed via Beach Street (the lowest point of the site), which is consistent with the existing parking arrangements along Beach Street and the recent approval DA/923/2023 at the southern adjoining property at no.68.	On merit
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	Complies	Yes
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	Complies	Yes
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	N/A	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	Complies	Yes
<b>6.2</b>	<b>Configuration</b>		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	Complies	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	Complies	Yes
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.	Complies	Yes
<b>7. Fencing and Ancillary Development</b>			
<b>7.1 Fencing</b>			
	(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: - Steel post and chain wire - Barbed wire or other dangerous materials (iii) Expansive surfaces of blank rendered masonry to street frontages must be	Side and rear boundary walls and fencing are proposed without details.  A condition has been imposed in the draft Notice of Determination to ensure consistent with the existing streetscape.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	avoided.		
<b>7.2</b>	<b>Front Fencing</b>		
	<p>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.</p> <p>(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.</p> <p>(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios:                      - Front fence for sites facing arterial roads.                      - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade.                      Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.</p> <p>(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.</p> <p>(vi) The preferred materials for front fences are natural stone, face bricks and timber.</p> <p>(vii) Gates must not open over public land.</p> <p>(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.</p>	Front fencing not proposed, boundary defined by the planter boxes along each side of the site within the front setback.	N/A
<b>7.3</b>	<b>Side and Rear Fencing</b>		
	<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</p>	Consistent with the DCP requirements, the fence height does not exceed 2.2m.	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	2200mm above ground level (existing). (ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits. (iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment. (iv) Side or common boundary fences must be finished or treated on both sides.		
<b>7.6</b>	<b>Storage</b>		
	(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling. (ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles. (iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: (a) Studio apartments – 6m3 (b) 1-bedroom apartments – 6m3 (c) 2-bedroom apartments – 8m3 (d) 3 plus bedroom apartments – 10m3	Suitable storage is provided for future residents.	Yes
<b>7.7</b>	<b>Laundry facilities</b>		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Suitable space is available for clothes drying.	Yes
	(ii) Provide internal laundry for each dwelling unit.	Each unit is provided with a laundry.	Yes
<b>7.8</b>	<b>Air conditioning units:</b>		
	<ul style="list-style-type: none"> <li>Avoid installing within window frames. If installed in balconies, screen by suitable balustrades.</li> <li>Air conditioning units must not be installed within window frames.</li> </ul>	Capable of complying, subject to conditions.	Yes

**Responsible officer:** Ivy Zhang, Senior Environmental Planning Officer

**File Reference:** DA/806/2025

**Draft Development Consent Conditions  
(Medium Density Residential)**



D78/25

<b>Folder /DA No:</b>	DA/806/2025
<b>Property:</b>	66 Beach Street, COOGEE NSW 2034
<b>Proposal:</b>	Demolition of existing structures and construction of a new four (4) storey residential flat building with basement level, comprising four (4) dwellings including one (1) affordable housing dwelling, seven (7) car parking spaces, associated ancillary works, landscaping and earthworks.
<b>Recommendation:</b>	Approval

**GENERAL CONDITIONS**

Condition

1. **Approved plans and documentation**

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Site Plan DA.02 Issue K	Roth Architects	14 November 2025	14 November 2025
Demolition Plan DA.03 Issue K	Roth Architects	14 November 2025	14 November 2025
Proposed Lower Ground Floor Plan DA.04 Issue K	Roth Architects	14 November 2025	14 November 2025
Proposed Ground Floor Plan DA.05 Issue K	Roth Architects	14 November 2025	14 November 2025
Proposed First Floor Plan DA.06 Issue K	Roth Architects	14 November 2025	14 November 2025
Proposed Second Floor Plan DA.07 Issue K	Roth Architects	14 November 2025	14 November 2025
Proposed Third Floor Plan DA.08 Issue K	Roth Architects	14 November 2025	14 November 2025
Proposed Roof Plan DA.09 Issue K	Roth Architects	14 November 2025	14 November 2025
Front Elevation – East DA.17 Issue K	Roth Architects	14 November 2025	14 November 2025
Side Elevation – North DA.18 Issue K	Roth Architects	14 November 2025	14 November 2025
Rear Elevation – West DA.19 Issue K	Roth Architects	14 November 2025	14 November 2025
Side Elevation –	Roth Architects	14 November	14 November

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Condition				
South DA.20 Issue K		2025		2025
Section AA DA.21 Issue K	Roth Architects	14 2025	November	14 November 2025
Section AA – Front Area DA.22 Issue K	Roth Architects	14 2025	November	14 November 2025
Section AA – Rear Area DA.23 Issue K	Roth Architects	14 2025	November	14 November 2025
Section BB DA.24 Issue K	Roth Architects	14 2025	November	14 November 2025
Section CC DA.25 issue K	Roth Architects	14 2025	November	14 November 2025
Section CC – Front Area DA.26 Issue K	Roth Architects	14 2025	November	14 November 2025
Section CC – Rear Area DA.27 Issue K	Roth Architects	14 2025	November	14 November 2025
Detail Section – Western Wall (Rear) DA.28 Issue K	Roth Architects	14 2025	November	14 November 2025
Detail Section – Southern Wall (Side) DA.29 Issue K	Roth Architects	14 2025	November	14 November 2025
Detail Section – Northern Wall (Side) DA.30 Issue K	Roth Architects	14 2025	November	14 November 2025
External Finishes DA.31 Issue K	Roth Architects	14 2025	November	14 November 2025
Landscape Plan – Overall Site Plan LC01	Studio U.C	29 April 2025		6 August 2025
Landscape Plan – Front Garden LC02	Studio U.C	29 April 2025		6 August 2025
Landscape Plan – Rear Garden LC03	Studio U.C	29 April 2025		6 August 2025
Planting Plan LC05	Studio U.C	29 April 2025		6 August 2025

<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>
1802481M_02	3 July 2025	6 August 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. Any excavated sandstone from the site shall be reused as part of the front wall treatment to Beach Street.
- b. The proposed privacy screens on the northern and southern side

Condition
elevations must be constructed with either: <ul style="list-style-type: none"><li>• Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);</li><li>• Fixed vertical or horizontal louvres with the individual blades angled and spaced not more than 30mm wide to prevent overlooking into the private open space or windows of the adjacent dwellings.</li></ul>
c. Boundary retaining walls, where facing and adjacent to the proposed building, will have a timber float finish to a light colour of shotcrete.
d. Side and rear fencing details including the materials, finishes and height must be submitted to the Private Certifier for approval. The maximum height of the fencing must not exceed 2.2m from the existing ground level. The materials and finishes must complement the building on the site and be consistent with the existing development along Beach Street.
e. Control visitor entry to all units and internal common areas by intercom and remote locking systems must be detailed on the plans.
f. Provide illumination for all building entries and pedestrian paths within the development. External lighting must be neither intrusive nor create a nuisance for nearby residents.
g. Air conditioners shall not be installed within window frames or be visible from the public domain.
h. Skylights shall be incorporated above the master bedroom, Bedroom 2 and courtyard terrace of Apartment 1 on the ground floor.
i. Dense screening planting shall be provided along both sides of the external curved stairs which provide pedestrian access from Beach Lane, and along the eastern edge of the upper open space adjacent to the pedestrian entrance within the rear yard. The planting must comprise species capable of achieving a minimum mature height of 2.0 metres, be spaced to ensure continuous visual screening, and be maintained in a healthy condition at all times to minimise overlooking to adjoining properties.

Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

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

Ausgrid Overhead Powerlines are in the vicinity of the development

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

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

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

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Condition

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

New Driveways - Proximity to Existing Poles

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

New or modified connection

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

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

Condition Reason: To ensure compliance with AusGrid conditions.

4. **Affordable Rental Housing Component**

The units identified as affordable housing on plan – Compliance FSR DA.13, Issue K, prepared by Roth Architects, dated 14 November 2025, (being unit 1) shall be provided as affordable housing in accordance with the State Environmental Planning Policy (Housing) 2021:

- (a) The dwellings to be used for the purposes of 'affordable rental housing', as per the provisions of the SEPP (Housing) 2021 shall be used as such for at least 15 years from the date of the issue of the Occupation Certificate.
- (b) The affordable rental housing component (secured for a minimum of 15 years) must be managed by Bridge Housing in accordance with the letter dated 17 September 2025.
- (c) The CHP must ensure compliance with the occupant restriction and other provisions of the regulatory code established through regulations under the Housing Act 2001.
- (d) A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 that will ensure that the requirements a. and b. are met and that the terms of restriction may not be varied without Council's consent.
- (e) Prior to an Occupation Certificate being granted, evidence must be provided to Council demonstrating that the section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.

Condition Reason: To ensure the affordable housing component is provided in accordance with the consent and managed in accordance with the Housing SEPP.



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

**Condition**

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

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

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

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

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

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

<b><i>Housing and productivity contribution</i></b>	<b><i>Amount</i></b>
Housing and productivity contribution (base component)	\$21,624.35
Transport project component	Nil
<b>Total housing and productivity contribution</b>	<b>\$21,624.35</b>

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order)*.

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Condition Reason: To require contributions towards the provision of regional infrastructure, and to ensure the housing and productivity contribution is paid.

8. **Section 7.12 Development Contributions**  
Development Contributions are required in accordance with the applicable Randwick City Council Development Contributions Plan, based on the development cost of \$5,504,210.00 the following applicable monetary levy must be paid to Council: \$55,042.10.

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Condition

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

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

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

**IDC** = the indexed development cost

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

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

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

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

Condition Reason: To ensure relevant contributions are paid.

9. **Long Service Levy Payments**

Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

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

Condition Reason: To ensure the long service levy is paid.

10. **Security Deposits**

The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- \$5,000.00 - Damage / Civil Works Security Deposit

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

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

To obtain a refund of relevant deposits, a *Security Deposit Refund Form* is to be

	Condition
	<p>forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
11.	<p><b>Sydney Water</b></p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"><li>• Building plan approvals</li><li>• Connection and disconnection approvals</li><li>• Diagrams</li><li>• Trade waste approvals</li><li>• Pressure information</li><li>• Water meter installations</li><li>• Pressure boosting and pump approvals</li><li>• Change to an existing service or asset, e.g. relocating or moving an asset.</li></ul> <p>Sydney Water's Tap in™ in online service is available at: <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a></p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
12.	<p><b>Building Code of Australia</b></p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
13.	<p><b>BASIX Requirements</b></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</p>

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|     | and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.   |
|     | Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.   |
| 14. | <p><b>Site stability, Excavation and Construction work</b></p> <p>A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:</p> <ul style="list-style-type: none"> <li>(a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties.</li> <li>(b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.</li> <li>(c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.</li> <li>(d) Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work.</li> <li>(e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the appointed Certifier for the development prior to issue of a relevant construction certificate.</li> </ul> <p>Condition Reason: To ensure the subject site/development and adjoining land is adequately supported and protected during any works.</p> |
| 15. | <p><b>Parking Arrangement</b></p> <p>Should the development propose to manage the off-street parking arrangement via parking allocation then an off-street car space must be exclusively allocated to Apartment 1. Details of compliance must be provided in the Construction Certificate documentation and approved by the Principal Certifier.</p> <p>Condition Reason: To ensure there is a sufficient supply of off-street parking for all the proposed apartments.</p>   |
| 16. | <p><b>Traffic</b></p> <p>Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the Principal Certifier, are to be included in the Construction Certificate documentation.</p> <p>Condition Reason: To ensure adequate sightlines for pedestrians and drivers are provided.</p>  |
| 17. | <p><b>Traffic</b></p> <p>The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height</p>   |

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|     | <p>clearances) are to be in accordance with the requirements of AS/NZS 2890.1:2004. The levels of the driveway must match the alignment levels at the property boundary (as specified by Council). The Construction Certificate plans must demonstrate compliance with these requirements.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>  |
| 18. | <p><b>Design Alignment levels</b></p> <p>The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:</p> <ul style="list-style-type: none"><li>• <b>RL40.23m AHD at the northern driveway edge.</b></li><li>• <b>RL40.57m AHD at the southern driveway edge.</b></li><li>• <b>RL41.20m AHD at the southern pedestrian entrance.</b></li></ul> <p>The design alignment levels at the property boundary as issued by Council and their relationship to the kerb must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment levels must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6888.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>   |
| 19. | <p><b>Design Alignment levels</b></p> <p>The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of <b>\$990</b> calculated at <b>\$65.00</b> (as of 1<sup>st</sup> July 2025) per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure all driveway &amp; footpath works are designed and constructed in accordance with Council requirements and Australian Standards</p>   |
| 20. | <p><b>Stormwater Management</b></p> <p><u>Stormwater drainage plans have not been approved as part of this development consent.</u> Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the Principal Certifier. The drawings and details shall include the following information:</p> <ol style="list-style-type: none"><li>a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.</li><li>b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.</li><li>c) The separate catchment areas within the site, draining to each</li></ol> |



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<p>collection point or surface pit are to be classified into the following categories:</p> <ul style="list-style-type: none"> <li>i. Roof areas</li> <li>ii. Paved areas</li> <li>iii. Grassed areas</li> <li>iv. Garden areas</li> </ul> <p>d) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.</p> <p>e) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.</p> <p>f) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.</p>
<p>21. <b>Stormwater Management</b> All stormwater runoff being discharged from the site shall be directed to Council's underground drainage system in Beach Street via a new kerb inlet pit (constructed in general accordance with Council's standard drawing SD6). The new kerb inlet pit shall be constructed along the existing Council stormwater pipeline in Beach Street.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.</p>
<p>22. <b>Stormwater Management</b> With the exception of the site discharge pipe, all new pipelines constructed within council's road reserve shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RCP). Prior to backfilling, all pipelines in council's road reserve shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.</p> <p>Condition Reason: To ensure public drainage infrastructure is built in accordance with Council's current standards.</p>
<p>23. <b>Stormwater Management</b> Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.</p>
<p>24. <b>Stormwater Management</b> The site stormwater drainage system is to be provided in accordance with the following requirements:</p> <ul style="list-style-type: none"> <li>a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the <i>Principal</i></li> </ul>

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<p><i>Certifier</i> and details are to be included in the construction certificate.</p>
<p>b) The stormwater must be discharged (by gravity) directly into Council's underground drainage system located in Beach Street via a new kerb inlet pit.</p>
<p>c) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;</p> <ul style="list-style-type: none"> <li>i. There are suitable clear-outs/inspection points at pipe bends and junctions.</li> <li>ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.</li> </ul>
<p>d) If connecting to Council's underground drainage system, a reflux valve shall be provided (within the site) over the pipeline discharging from the site to ensure that stormwater from Council drainage system does not surcharge back into the site stormwater system.</p>
<p>e) Any new kerb inlet pits (constructed within Council's road reserve) are to be constructed generally in accordance with Council's standard detail for the design of kerb inlet pits (drawing number SD6 which is available from Council).</p>
<p>f) Generally, all internal pipelines must be capable of discharging a 1% AEP (1 in 100 year) storm flow. However, the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter.</p>
<p>g) A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system.</p> <p>Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:</p> <ul style="list-style-type: none"> <li>• The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.</li> <li>• The pit being constructed from cast in-situ concrete, precast concrete or double brick.</li> <li>• A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.</li> <li>• A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).</li> <li>• The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.</li> <li>• A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).</li> <li>• Provision of a sign adjacent to the pit stating, "This sediment/silt arrestor pit shall be regularly inspected and cleaned".</li> </ul>

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*Sketch details of a standard sediment/silt arrester pit may be obtained from Council's Drainage Engineer.*

- h) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- i) A 'V' drain (or equally effective provisions) is to be provided to the perimeter of the property, where necessary, to direct all stormwater to the stormwater system.

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

25. **Geotechnical Investigation**

A detailed Geotechnical Investigation Report must be prepared by a suitably qualified geotechnical engineer and provide conclusive information regarding the groundwater and seepage flow behaviour of the soil at the site to a depth of 0.5m below the proposed basement floor slab.

Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.

26. **Site seepage & Dewatering**

The development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:

- a) Seepage/ground water and subsoil drainage (from planter boxes etc) must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system
- b) Adequate provision is to be made for the ground water to drain around the basement carpark (to ensure the basement will not dam or slow the movement of the ground water through the development site).
- c) The walls of the basement level/s of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into the basement level/s of the building and the stormwater drainage system for the development.
- d) Sub-soil drainage systems may discharge via infiltration subject to the hydraulic consultant/engineer being satisfied that the site and soil conditions are suitable and the seepage is able to be fully managed within the site, without causing a nuisance to any premises and ensuring that it does not drain or discharge (directly or indirectly) to the street gutter.
- e) Details of the proposed stormwater drainage system including methods of tanking the basement levels and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced Professional Engineer to the satisfaction of the Principal Certifier and details are to be included in the construction certificate. **A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Principal Certifier.**

Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.

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27. **Waste Management**

A Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Lead Specialist Strategic Waste.

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

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

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

Condition Reason: To ensure the development effectively manages its waste during construction and operational phases.

28. **Waste Management**

The garbage room shall be sized to contain a total of 6 x 240L bins and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.

Condition Reason: To ensure adequate waste management for the life of the development.

29. **Waste Management**

The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

Condition Reason: To ensure adequate waste management for the life of the development.

30. **Amendment to Landscape, Demolition and Arboriculture Plans**

The Landscape Plans by Studio U. C dated 29/4/2025, Arborist Assessment Report by Tree Talk dated 5/2025 & Demolition Plan, Dwg DA.03 Issue F, dated 31/7/2025 must be amended to include the following requirements:

- a) Be consistent with the architectural drawings by Roth Architects, Issue K and dated 14 November 2025.
- b) Incorporate the access handle to Beach Lane and provide details of appropriate landscaping treatments, such as permeable paving and low-maintenance planting.
- c) Deletion of 1-Aco *Angophra costata* (Sydney Red Gum) which is shown within Landscape Plan, Plant Schedule, Dwg LC05.
- d) **Retention** of mature *Cinnamomum camphora* (Camphor Laurel T1) **within all**

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plans, with its SRZ, be kept as Undisturbed Deep Soil.

- e) Tree Protections must be applied within **Arborist Assessment Report** for retention of mature *Cinnamomum camphora* (Camphor Laurel **T1**) which are as follows:
- I. Metal fencing Protections within **T1**'s SRZ, which must be applied after all hand demolition of nearby structures, concrete and bitumen within ground levels, which then shall not be removed until Landscaping has been provided at completion of works.
  - II. If roots are found within proposed new western rear boundary fence, then the need to alter the design away from a traditional strip footing, a suitably qualified engineer must have an alternative design approved by the Principal Certifier, prior to installation, trenches must be performed by hand, to a minimum depth of 600mm and a minimum width of 200mm, without damaging any roots in the process.
  - III. Minimal lower lateral branch pruning must be applied for protection against physical and mechanical injuries, all dead wood and suckering to be removed for aesthetic reasons.
  - IV. Appendixes A – F within Arborists Assessment Report must be updated showing all requirement for **T1** retention and protections.

A revised scheme complying with the requirements specified above must then be submitted to, and be approved by, the Principal Certifier, prior to any Construction Certificate.

Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.

31. **Protection of trees within street**

To ensure retention of 2 semi mature Hibiscus tiliaceus 'Rubra' (Bronze Cottonwood **C**) both 5 metres high, good vigour, good health, one located centrally adjacent frontage of subject site, second species, north of power pole, adjacent southern aspect of northern neighbouring No.64 property, the following measures are to be undertaken:

- a) All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunks, canopies SRZ, TPZ and Tree Identification Numbers as taken from the Arborist Report to be clearly and accurately shown on all plans in relation to the proposed works.
- b) Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as *'the Project Arborist'* for the duration of works and will be responsible for both implementing and monitoring these conditions of development consent, the Tree Protection/Management Plan/Recommendations/Specification any other instructions issued on-site.
- c) Where there is a difference in level between this site and an adjoining property, and the soil level where the trees are growing is higher than the subject site, if the soil profile is to be exposed for any period of time, temporary shoring must be provided along the common boundary so as to prevent failure of the soil and trees, with a suitable system to be approved by the PCA, prior to installation.



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d)	Both trees must be physically protected with the installation of 1.8-metre-high steel mesh/chainwire fencing panels, measuring 2 metres from their trunks to completely enclose both trees individually for the duration of works.
e)	This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: <b>"TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER"</b> .
f)	If additional trunk or branch protection is required, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around their circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
g)	Where major roots with a diameter of 50mm or more are encountered and Council's officer determines they must be retained, a cantilevered, pier and beam style footing must be used for these areas.
h)	Where roots with a diameter of less than 50mm are found which are in direct conflict with the approved works, and permission is given for their pruning, they may be cut cleanly using hand-held tools only, with the affected area to then be backfilled with clean site soil as soon as practically possible.
i)	Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly using only hand-held tools, not machinery, with the affected area to then be backfilled with clean site soil as soon as practically possible.
j)	Ground levels within the TPZ's must not be altered by more than 200mm, with no other structures such as continuous strip footings, planter boxes or similar to be located in this area, which is to remain as undisturbed, deep soil
k)	The applicant is not authorised to perform any other works to these public trees and must contact Council's Landscape Development Officer on 9093-6633 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, <b>GIVING UP TO SIX WEEKS NOTICE</b> , with payment to be received prior to pruning or any Occupation Certificate.
l)	Within the TPZ's there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
m)	The Principal Certifier/and Project Arborist must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.

A refundable deposit in the form of cash, credit card, cheque OR bank guarantee for an amount of **\$2000.00** must be paid into **Tree Amenity Income** via Council's Customer Service Centre, **prior to a Construction Certificate being issued for the development** to ensure compliance with the conditions listed in this consent, and preservation of the tree/s.

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

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

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

Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

32. **Protection of tree within property**

To ensure retention of mature *Cinnamomum camphora* (Camphor Laurel T1) 12 metres high, good vigour, good health, located within western rear of property, the species has been around 1970-1980's, with age in consideration, amenity landscape value and aesthetics, no obvious signs of decline, clear of development works, with proposed landscaping the only works near this tree, the following measures are to be undertaken:

- a) All documentation submitted for the Construction Certificate application must show its retention, with the position and diameter of its trunk, canopy SRZ, TPZ and Tree Identification Numbers as taken from the Arborist Report to be clearly and accurately shown on all plans in relation to the proposed works.
- b) Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as 'the Project Arborist' for the duration of works and will be responsible for both implementing and monitoring these conditions of development consent, the Tree Protection/Management Plan/Recommendations/Specification any other instructions issued on-site.
- c) All Construction Certificate plans must clarify that all existing concrete, bitumen, sheds, carports, **must be hand demolished**, within its 3.8m SRZ, Arborist assessment detailed large buttresses with roots lifting bitumen, the Principal Certifier must ensure that removal of concrete/bitumen surfaces around/within the buttresses and root system within its SRZ, within existing vehicle hardstand, garages, must be **undertaken by hand, not machinery**, so as to **avoid the indiscriminate damage of roots**.

Site Arborist must be present on-site at these stages of works and must keep a log of the dates of attendance and the works performed, which is to be presented as a Final Compliance Report, for the approval of the Principal Certifier, prior to the issue of any Occupation Certificate."

In the event of any discrepancy between the Arborists Reports and the

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conditions of consent, the Arborist must contact Council's Landscape Development Officer on 9399-9633 to reach agreement on the outcome.
d) The Principal Certifier must ensure that removal of the concrete/bitumen and existing garages on northwestern half of property is undertaken by hand, not machinery, so as to avoid the indiscriminate damage of roots.
e) Following removal of the surfacing and existing structures described above, but prior to performing excavations for forming up or constructing the rear western boundary fence, Council's Landscape Development Officer must inspect <b>any roots encountered</b> , and where permission is granted for their pruning in order to accommodate the proposed works, they must be cut cleanly by hand (using only sterilised tools), with the affected area to be backfilled with clean site soil as soon as practically possible so that roots are not left exposed to the atmosphere.
f) Where there is a difference in level between this site and an adjoining property, and the soil level where the trees are growing is higher than the subject site, if the soil profile is to be exposed for any period of time, temporary shoring must be provided along the common boundary so as to prevent failure of the soil and trees, with a suitable system to be approved by the PCA, prior to installation
g) Prior to the commencement of any site works, the trunk of the tree is to be physically protected by wrapping layers of geo-textile, underfelt, carpet, hessian or similar, from ground level to a height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
h) This tree must also be physically protected with the installation of 1.8-metre-high steel mesh/chainwire fencing panels, which shall be secured to the boundary fence to its west, measuring 3 metres from the trunk to completely enclose the tree for the duration of works
i) This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: <b>"TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER"</b>
j) To prevent soil/sediment being washed over the root system, erosion control measures must be provided at ground level around the perimeter of the TPZ.
k) Where major roots with a diameter of 50mm or more are encountered and Council's officer determines they must be retained, a cantilevered, pier and beam style footing must be used for these areas.
l) The Construction Certificate plans must acknowledge that the site inspection may result in the need to alter the design away from a traditional strip footing, with a suitably qualified engineer to have an alternative design approved by the Principal Certifier, prior to installing the footings.
m) Where roots with a diameter of less than 50mm are found which are in direct conflict with the approved works, and permission is given for their pruning, they may be cut cleanly using hand-held tools only, with the affected area to then be backfilled with clean site soil as soon as

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<p>practically possible</p> <p>n) Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly using only hand-held tools, not machinery, with the affected area to then be backfilled with clean site soil as soon as practically possible</p> <p>o) If protection fencing is removed at any time during construction, Ground protection comprising strapped together rumble boards, sheets of plywood or similar shall be provided on top of 150mm mulch, then must remain in place for the duration of works, until such time as the approved landscaping is being installed.</p> <p>p) Within the TPZ there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.</p> <p>q) The Principal Certifier/and Project Arborist must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.</p>

Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.

33. **Protection of trees within neighbouring properties**  
To ensure retention of mature Eucalyptus botryoides (Bangalay TA) good vigour, good health, located wholly within southern No.68 neighbouring property, Lilly Pilli hedge (TB) wholly within northeastern side setback of neighbouring No.64 property, the following measures are to be undertaken:
- a) All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunks, canopies SRZ, TPZ and Tree Identification Numbers as taken from the Arborist Report to be clearly and accurately shown on all plans in relation to the proposed works.
  - b) Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as 'the Project Arborist' for the duration of works and will be responsible for both implementing and monitoring these conditions of development consent, the Tree Protection/Management Plan/Recommendations/Specification any other instructions issued on-site.
- Pruning**
- c) Permission is granted for selective pruning of lower lateral overhanging branches which protrude over western rear laneway from southern rear neighbouring Bangalay TA tree, which is located on adjoining property No.68, this approval does not imply any right of entry onto a neighbouring property, nor does it allow pruning beyond a common boundary.

Permission is also granted for selective pruning of Lilly Pilli hedge (TB) wholly within northern neighbouring No.64, not in direct conflict with works, but pruning maybe applied so to protect from physical or mechanical damage, this approval does not imply any right of entry onto a neighbouring property, nor does it allow pruning beyond a common boundary.

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However, where such measures are desirable in the best interests of correct pruning procedures, it shall be necessary for the applicant to negotiate with the tree owner. All pruning must be undertaken by a qualified Arborist, with suitable qualifications in Arboriculture and to Australian Standard AS 4373-1996 'Pruning of Amenity Trees.

- d) Where there is a difference in level between this site and an adjoining property, and the soil level where trees are growing is higher than the subject site, if the soil profile is to be exposed for any period of time, temporary shoring must be provided along the common boundary so as to prevent failure of the soil and trees, with a suitable system to be approved by the PCA, prior to installation.
- e) The roots of the trees must be physically protected by installing an evenly spaced star pickets, which firstly, at a setback of 3000mm of the Bangalay **TA** trunk, which must matching up with its southern boundary fence, then secondly, installing an evenly spaced star pickets at a setback of 2000mm of the northeastern side setback Lilly Pilli hedge (**TB**) to which, safety para-webbing shall then be permanently attached to completely enclose its southern roots system for the duration of works, **all protected SRZ's must be kept as undisturbed deep soil.**
- f) This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "**ROOT PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER**"
- g) Where major roots with a diameter of 50mm or more are encountered and Council's officer determines they must be retained, a cantilevered, pier and beam style footing must be used for these areas.
- h) The Construction Certificate plans must acknowledge that the site inspection may result in the need to alter the design away from a traditional strip footing, with a suitably qualified engineer to have an alternative design approved by the Principal Certifier, prior to installing the footings.
- i) Where roots with a diameter of less than 50mm are found which are in direct conflict with the approved works, and permission is given for their pruning, they may be cut cleanly using hand-held tools only, with the affected area to then be backfilled with clean site soil as soon as practically possible
- j) Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly using only hand-held tools, not machinery, with the affected area to then be backfilled with clean site soil as soon as practically possible
- k) Ground levels within the TPZ must not be altered by more than 200mm, with no other structures such as continuous strip footings, planter boxes or similar to be located in this area, which is to remain as undisturbed, deep soil.
- l) Ground protection comprising strapped together rumble boards, sheets of plywood or similar shall be provided on top of 150mm mulch area if protection fencings are removed at any period and must remain in place for the duration of works, until such time as the approved landscaping is being installed.
- m) Within the TPZ there is to be no storage of materials, machinery or site



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|     | office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.   |
|     | n) The Principal Certifier/and Project Arborist must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.   |
|     | Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.   |
| 34. | <p><b>Public Utilities</b></p> <p>A <i>Public Utility Impact Assessment</i> must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>   |
| 35. | <p><b>Undergrounding of Site Power</b></p> <p>Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in Beach Street. No Permanent Private Poles are to be installed with all relevant documentation submitted for the construction certificate to reflect these requirements to the satisfaction of the Principal Certifier. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out the works to the requirements and satisfaction of Ausgrid and at no cost to Council.</p> <p>Condition Reason: To minimise the use of private poles in accordance with Council's resolution and protect street amenity.</p>   |
| 36. | <p><b>Acoustic Privacy</b></p> <p>Noise and vibration from the development must comply with the following requirements and a report prepared by a qualified Acoustic Consultant must be submitted to and approved by Council's Director City Planning, prior to the issue of a Construction Certificate:</p> <ol style="list-style-type: none"> <li>The recommendations and requirements in the Acoustic Report submitted to Council with the development application, prepared by Renzo Tonin &amp; Associates, dated 21 February 2025 are required to be complied with, except as may be modified by the conditions of this development consent.</li> <li>Acoustic assessment of mechanical plant equipment must be undertaken during the detail design phase to ensure that they shall not either singular or in total emit noise levels which exceeds the relevant noise level requirements.</li> <li>The recommendations and requirements contained in the Acoustic Report (submitted in response to this condition and as approved by Council's Director City Planning) form part of the development consent and details of compliance shall be included in the Construction Certificate accordingly.</li> </ol> <p>Condition Reason: To ensure appropriate level of acoustic privacy.</p> |
| 37. | <p><b>Acoustic Privacy</b></p>   |

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Noise from the development must not cause an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and must satisfy the project amenity/intrusiveness noise level or the maximum noise level as detailed in the NSW EPA Noise Policy for Industry 2017 (NPfI) and conditions of this development consent.

A report prepared by a qualified Acoustic Consultant, which provides details of compliance with the abovementioned criteria, must be provided to the Council and the Certifier for the development and any recommendations and requirements are to be included in the Construction Certificate accordingly.

Condition Reason: To ensure appropriate level of acoustic privacy.

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**BEFORE BUILDING WORK COMMENCES**

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38. **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.

39. **Dilapidation Reports**

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

The dilapidation report must be submitted to the Principal Certifier, Council and the owners of the adjoining/nearby premises encompassed in the report, prior to

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	<p>commencing any site works (including any demolition work, excavation work or building work).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
40.	<p><b>Construction Noise &amp; Vibration Management Plan</b></p> <p>Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p>A <i>Construction Noise &amp; Vibration Management Plan</i> must be developed and implemented throughout demolition and construction work.</p> <p>(a) The <i>Construction Noise &amp; Vibration Management Plan</i> must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority <i>Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline</i> (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.</p> <p>(b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.</p> <p>(c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the <i>Construction Noise &amp; Vibration Management Plan</i> and which demonstrates compliance with relevant criteria.</p> <p>(d) Any recommendations and requirements contained in the <i>Construction Noise &amp; Vibration Management Plan</i> and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.</p> <p>A copy of the Construction Noise &amp; Vibration Management Plan and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.</p> <p>(e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
41.	<p><b>Construction Site Management Plan</b></p> <p>A Construction Site Management Plan must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:</p> <ul style="list-style-type: none"> <li>• location and construction of protective site fencing and hoardings</li> <li>• location of site storage areas, sheds, plant &amp; equipment</li> </ul>

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- 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.

42. **Construction Site Management Plan**

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

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

43. **Public Liability**

The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.

Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.

44. **Construction Traffic Management**

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

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

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

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	waive the requirement to provide a Works Zone prior to the commencement of any site work.
	Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.
45.	<p><b>Construction Traffic Management</b></p> <p>A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.</p> <p>The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:</p> <ul style="list-style-type: none"> <li>• A description of the demolition, excavation and construction works</li> <li>• A site plan/s showing the site, roads, footpaths, site access points and vehicular movements</li> <li>• Any proposed road and/or footpath closures</li> <li>• Proposed site access locations for personnel, deliveries and materials</li> <li>• Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)</li> <li>• Provision for loading and unloading of goods and materials</li> <li>• Impacts of the work and vehicular movements on the road network, traffic and pedestrians</li> <li>• Proposed hours of construction related activities and vehicular movements to and from the site</li> <li>• Current/proposed approvals from other Agencies and Authorities (including NSW Roads &amp; Maritime Services, Police and State Transit Authority)</li> <li>• Any activities proposed to be located or impact upon Council's road, footways or any public place</li> <li>• Measures to maintain public safety and convenience</li> </ul> <p><i>The approved Construction Site Traffic Management Plan must be complied with at all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.</i></p> <p>Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.</p>
46.	<p><b>Construction Traffic Management</b></p> <p>Any necessary approvals must be obtained from NSW Police, Roads &amp; Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.</p> <p>All conditions and requirements of the NSW Police, Roads &amp; Maritime Services, State Transit Authority and Council must be complied with at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and that any requirements of relevant external agencies are met.</p>



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47.	<p><b>Civil Drainage Works</b></p> <p>A separate written approval from Council is required to be obtained in relation to all works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the Roads Act 1993. Detailed plans and specifications of the proposed works are to be submitted to and approved by the Manager Engineering Services prior to commencing any works within the road reserve/public place.</p> <p>All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a certified practicing engineer is to be provided to Council upon completion of the works.</p> <p>Relevant Council assessment and inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.</p> <p>Condition Reason: To ensure compliance with the Roads Act 1993.</p>
48.	<p><b>Public Utilities</b></p> <p>Documentary evidence from the relevant public utility authorities confirming they have agreed to the proposed works and that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any demolition, excavation or building works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other service authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
49.	<p><b>Hazardous Materials</b></p> <p>Hazardous materials arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority, and with the provisions of:</p> <ul style="list-style-type: none"><li>• <i>Work Health and Safety Act 2011;</i></li><li>• <i>Work Health and Safety Regulation 2017;</i></li><li>• <i>Protection of the Environment Operations Act 1997;</i></li><li>• <i>Protection of the Environment Operations (Waste) Regulation 2014;</i></li><li>• <i>NSW EPA Waste Classification Guidelines (2014);</i></li><li>• <i>SafeWork NSW Code of Practice for the Safe Removal of Asbestos;</i></li><li>• <i>Australian Standard 2601 (2001) – Demolition of Structures;</i></li><li>• <i>Randwick City Council's Asbestos Policy.</i></li></ul> <p>Details of Compliance must be provided to the Principal Certifier for the development and Council, prior to commencement of site works.</p> <p>Condition Reason: To ensure compliance with the requirements of SafeWork NSW and the Environment Protection Authority.</p>

**DURING BUILDING WORK**

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50.	<p><b>Site Signage</b></p> <p>It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and</p>

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

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

51. **Restriction on Working Hours**  
 Building, demolition and associated site works must be carried out in accordance with the following requirements:

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

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

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

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

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	and as specified in the conditions of consent.
	Condition Reason: To protect the amenity of the neighbourhood during construction.
53.	<b>Construction Site Management</b> Temporary site safety fencing must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works.  Temporary site fences must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control); heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.  Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.  All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.  <i>Notes:</i> <ul style="list-style-type: none"><li>• <i>Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</i></li><li>• <i>A separate Local Approval application must be submitted to and approved by Council's Health, Building &amp; Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</i></li></ul> Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.
54.	<b>Treatment of Site Fencing and Hoardings</b> Any site hoarding or fencing, including temporary, construction, perimeter or safety fencing, are to incorporate artwork or historic images of the local area to improve the visual amenity of the site during demolition and for the interim period until construction is completed on the site.  Details of artwork and/or historic images, and of the fencing/hoarding, are to be submitted to and approved by Council's Manager Development Assessment prior to the commencement of any works on site including demolition.  The approved artwork/historic images are to remain on the fencing/hoarding throughout demolition works, and until such time as the construction works including the future development on site has been fully completed.  Any graffiti on the hoarding/fencing shall be removed at the expense of and by the developer/owner.  Condition Reason: To ensure public safety during site works and construction, and to improve public amenity, including visual amenity, during construction.
55.	<b>Public Safety &amp; Site Management</b> Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times: <ul style="list-style-type: none"><li>a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.</li></ul>

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<p>b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.</p> <p>c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.</p> <p>d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.</p> <p>e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.</p> <p>f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.</p> <p>g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</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) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>j) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p>

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

56. **Dust Control**

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

*Dust control measures and practices may include:*

- *Provision of geotextile fabric to all perimeter site fencing (attached on the*

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|     | <p><i>prevailing wind side of the site fencing).</i></p> <ul style="list-style-type: none"><li>• <i>Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.</i></li><li>• <i>Installation of water sprinkling system or provision hoses or the like.</i></li><li>• <i>Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.</i></li><li>• <i>Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.</i></li><li>• <i>Landscaping and revegetation of disturbed areas.</i></li></ul> <p>Condition Reason: To require details of measures that will minimise impacts to the public, and the surrounding environment, during site works and construction.</p>   |
| 57. | <p><b>Site Accessway</b></p> <p>A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.</p> <p>Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.</p> <p>Condition reason: To minimise and prevent damage to public infrastructure.</p>  |
| 58. | <p><b>Excavations and Support of Adjoining Land</b></p> <p>Tin accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>   |
| 59. | <p><b>Complaints Register</b></p> <p>A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.</p> <p>Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigation, actioned and responded to and documented in a Complaints Register accordingly.</p> <p>Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.</p> <p>Condition reason: To ensure any complaints are documented and recorded, and to protect the amenity of the surrounding area and residents.</p> |
| 60. | <p><b>Building Encroachments</b></p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>  |
| 61. | <p><b>Survey Report</b></p> <p>A Registered Surveyor's check survey certificate or other suitable documentation</p>  |



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Condition

must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:

- prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,
- prior to construction (pouring of concrete) of new floor levels,
- prior to issuing an Occupation Certificate, and
- as otherwise may be required by the Principal Certifier.

The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.

Condition Reason: To ensure compliance with approved plans.

62. **Site Seepage & Stormwater**

Details of the proposed connection and or disposal of any site seepage, groundwater or construction site stormwater to Council's stormwater drainage system must be submitted to and approved by Council's Development Engineering Coordinator, prior to commencing these works, in accordance with section 138 of the Roads Act 1993.

Details must include the following information:

- Stormwater/De-Watering Management Plan (prepared by a suitably qualified Environmental Consultant);
- Detailed plans and specifications;
- Hydraulic engineering details of the proposed disposal/connection of groundwater or site stormwater to Council/s drainage system
- Volume of water to be discharged
- Location and size of drainage pipes
- Duration, dates and time/s for the proposed works and disposal
- Details of water quality and compliance with the requirements of the *Protection of the Environment Act 1997*
- Details of associated plant and equipment, including noise levels from the plant and equipment and compliance with the requirements of the *Protection of the Environment Act 1997* and associated Regulations and Guidelines
- Copy of any required approvals and licences from other Authorities (e.g. A water licence from the Department of Planning/Department of Water & Energy).
- Details of compliance with any relevant approvals and licences

Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties, public health, and Council's stormwater assets.

63. **Road/Asset Opening Permit**

Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:

- a) 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.
- b) Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or

Condition
works to be carried out.
<ul style="list-style-type: none"> <li>c) Relevant <i>Road / Asset Opening Permit</i> fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,</li> <li>d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a <i>final occupation certificate</i> or occupation of the development (whichever is sooner).</li> <li>e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.</li> <li>f) Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.</li> <li>g) Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.</li> <li>h) The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each days activities and upon completion.</li> <li>i) The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.</li> <li>j) Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.</li> <li>k) The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.</li> </ul>

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

64. **Traffic Management**

Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

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

65. **Traffic Management**

All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.

	Condition
	Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.
66.	<p><b>Traffic Management</b></p> <p>All conditions and requirements of the NSW Police, Roads &amp; Maritime Services, Transport and Council must be complied with at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>
67.	<p><b>Stormwater Drainage</b></p> <p>Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the Principal Certifier.</p> <p>The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.</p> <p>Condition Reason: To control and manage stormwater run-off during excavation/construction so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
68.	<p><b>Tree Removals</b></p> <p>Approval is granted for the removal [or] pruning of the following trees only:</p> <ul style="list-style-type: none"> <li>a) Within frontage raised garden, mature <i>Plumeria acutifolia</i> (Frangipani <b>T4</b>) not significant to retain, can be replanted elsewhere if applicant needs, in direct conflict with frontage works.</li> <li>b) Staying within the frontage area, <i>Grevillea</i> hybrid species, in direct conflict with works, some remaining small shrubs and vegetation which are all insignificant are also in direct conflict with works.</li> <li>c) Within northern rear side setback, mature <i>Persea americana</i> (Avocado <b>T3</b>) fruit tree, near boundary fence, not significant to retain, retaining would see removal of its southern aspect crown to accommodate the proposed new dwelling, this would leave species unbalanced and aesthetically displeasing to the eye, may cause major issues down the track if retained</li> <li>d) Centrally positioned in rear yard, 2 x mature <i>Syagrus romanzoffianum</i> (Cocos Palm <b>T2</b>) exempt species, listed as undesirable species under 2013 B5 DCP control.</li> <li>e) Requests for the removal (or pruning) of any of the remaining trees on the site are subject to separate application under Council's Tree Preservation Order.</li> </ul> <p>Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.</p>
69.	<p><b>Retention of Trees</b></p> <p>The owner/applicant is required to ensure the retention and long term health of all trees located on adjoining properties adjacent to the proposed development. As a general guide there shall be minimal excavation or root pruning within the SRZ's of the subject trees.</p> <p>Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.</p>

**BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

Condition

70. **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.
71. **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.
72. **Post-construction Dilapidation Report**  
A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.
- The dilapidation report shall detail whether:
- (a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and
  - (b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent.
- The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.
- Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.
73. **Fire Safety Certificate**  
A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy of the *Fire Safety Certificate* and *Fire Safety Schedule* must also be forwarded to Fire and Rescue NSW.

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	Condition
	<p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
74.	<p><b>Structural Certification</b></p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p>
75.	<p><b>Sydney Water Certification</b></p> <p>A <i>section 73 Compliance Certificate</i>, under the <i>Sydney Water Act 1994</i> must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> &gt; <i>Building and developing</i> &gt; <i>Developing your Land</i> &gt; <i>Water Servicing Coordinator</i> or telephone 13 20 92.</p> <p>Please make early contact with the Water Servicing Coordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.</p> <p>The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
76.	<p><b>Noise Control Requirements &amp; Certification</b></p> <p>The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i>, NSW Environment Protection Authority (EPA) Noise Policy for Industry and Council's development consent.</p> <p>A copy of the report must be provided to the <i>Principal Certifier</i> and Council prior to an occupation certificate being issued.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
77.	<p><b>Street and/or Sub-Address Numbering</b></p> <p>Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.</p> <p>If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.</p> <p><i>Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted</i></p>



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*as endorsed, approved by, or to the satisfaction of Council.*

Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.

78. **Council's Infrastructure, Vehicular Crossings & Road Openings**

The owner/developer must meet the full cost for a Council approved contractor to:

- a) Construct a 3.8m wide concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to Council's specifications and requirements.
- b) Reconstruct kerb and gutter for the full site frontage except opposite the vehicular entrance and exit points, to Council's specifications and requirements.
- c) Carry out a full depth 1m wide, road construction in front of the kerb and gutter along the full site frontage, to Council's specifications and requirements.
- d) Reconstruct a 1.8m wide concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.

*The applicant/owner is requested to contact Council's City Services department on 9399 0537 to arrange for the required works on Council property to be carried out.*

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

79. **Council's Infrastructure, Vehicular Crossings & Road Openings**

Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.

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

80. **Council's Infrastructure, Vehicular Crossings & Road Openings**

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

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

	Condition
	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.
81.	<p><b>Council's Infrastructure, Vehicular Crossings &amp; Road Openings</b></p> <p>The naturestrip upon Council's footway shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar. Such works shall be installed prior to the issue of a final Occupation Certificate.</p> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
82.	<p><b>Survey Infrastructure – Restoration</b></p> <p>Where a Surveyor-General's Approval for Survey Mark Removal has been granted by NSW Spatial Services, documentary evidence of restoration of the removed survey mark must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council prior to the issue of an occupation certificate.</p> <p>The documentary evidence is to consist of a letter Signed by a Registered Land Surveyor confirming that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal under condition "Survey Infrastructure – Identification and Recovery" have been complied with.</p> <p>Condition Reason: To ensure the development satisfies requirements with regards to the Preservation of Survey Infrastructure (POSI) under Section 24 of the Surveying and Spatial Information Act 2002.</p>
83.	<p><b>Sydney Water</b></p> <p>A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).</p> <p>Go to <a href="http://sydneywater.com.au/section73">sydneywater.com.au/section73</a> or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.</p> <p><u>The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to the issuing of an Occupation Certificate.</u></p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements with regards to any upgrade/adjustment of Sydney Water's assets.</p>
84.	<p><b>Carparking</b></p> <p>The proposed carpark shall be finished in a manner fit for its intended use. The car spaces shall be formalised with line-marking and numbering/labelling with such works completed prior to the issuing of an occupation certificate.</p> <p>Condition Reason: To ensure the completed carpark is fit for purpose and ready for occupation.</p>

Condition	
85.	<p><b>Undergrounding of Power</b></p> <p>The Principal Certifier shall ensure that power supply to the completed development has been provided as an underground (UGOH) connection from the nearest mains distribution pole in Beach Street. All work is to be to the requirements and satisfaction of Ausgrid and at no cost to Council.</p> <p>NOTE: Any private poles must be removed prior to the issuing of an occupation certificate.</p> <p>Condition Reason: To minimise the use of private poles in accordance with Council's resolution and protect street amenity</p>
86.	<p><b>Stormwater Drainage</b></p> <p>A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):</p> <ul style="list-style-type: none"><li>• Finished site contours at 0.2 metre intervals,</li><li>• Orifice plate location and sizes (if applicable),</li><li>• The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pits and pipes.</li></ul> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
87.	<p><b>Stormwater Drainage</b></p> <p>The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing &amp; Drainage - Stormwater Drainage) and conditions of this development consent.</p> <p>The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
88.	<p><b>Stormwater Drainage</b></p> <p>The applicant shall submit to the Principal Certifier and Council certification from a suitably qualified and experienced professional engineer, confirming that the walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s and that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent. There must be no dry weather seepage/groundwater flows discharging to Council's street gutter or underground drainage system.</p> <p>Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
89.	<p><b>Waste Management</b></p> <p>Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.</p> <p>Condition Reason: To ensure adequate waste management for the life of the development.</p>
90.	<p><b>Waste Management</b></p>

Condition	
	The waste storage areas shall be clearly signposted.
	Condition Reason: To ensure adequate waste management for the life of the development.
91.	<p><b>Landscaping Certification</b></p> <p>Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the <b>Amended</b> Landscape Plan/s by Studio U. C dated 29/4/2025.</p> <p>Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
92.	<p><b>Hazardous Materials</b></p> <p>A report or statement must be provided to Council which confirms that any hazardous materials (including materials containing asbestos) on the site have been managed, removed and disposed of in accordance with relevant requirements of SafeWork NSW and conditions of development consent.</p> <p>Condition Reason: To ensure hazardous materials are appropriately dealt with.</p>

### OCCUPATION AND ONGOING USE

Condition	
93.	<p><b>Use of parking spaces</b></p> <p>The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>
94.	<p><b>Fire Safety Statement</b></p> <p>A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i>, and in accordance with the <i>Fire Safety Schedule</i> for the building.</p> <p>The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i>.</p> <p>A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire &amp; Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>

Condition	
95.	<p><b>External Lighting</b> External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
96.	<p><b>Parking Arrangement</b> Should the development propose to manage the off-street parking arrangement via parking allocation then an off-street car space must be exclusively allocated to Apartment 1.</p> <p>Condition Reason: To ensure there is a sufficient supply of off-street parking for all the proposed apartments.</p>
97.	<p><b>Residential Parking Permits</b> All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.</p> <p>Condition Reason: To ensure that the Council's street parking network is not overloaded.</p>
98.	<p><b>Residential Parking Permits</b> A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.</p> <p>Condition Reason: To ensure that the Council's street parking network is not overloaded.</p>
99.	<p><b>Acoustic Privacy</b> An acoustic report, prepared by a suitably qualified and experienced consultant in acoustics, must be provided to the Council <b>within 1 month of the issuing of an occupation certificate</b>, which demonstrates and confirms that the relevant provisions of the Protection of the Environment Operations Act 1997 and the noise criteria and requirements contained in this consent has been satisfied (including any relevant adopted acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.</p> <p>Condition Reason: To ensure appropriate acoustic privacy.</p>
100.	<p><b>Acoustic Privacy</b> The operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>Condition Reason: To ensure appropriate acoustic privacy.</p>
101.	<p><b>Air Conditioning</b> The air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:</p> <ul style="list-style-type: none"><li>• before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or</li><li>• before 7.00am or after 10.00pm on any other day.</li></ul> <p>Condition Reason: To ensure appropriate acoustic privacy.</p>



## DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition
<p>102. <b>Demolition Work</b></p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <ol style="list-style-type: none"> <li>a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.</li> <li>b) The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> <li>• The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor</li> <li>• Details of hazardous materials in the building (including materials containing asbestos)</li> <li>• Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)</li> <li>• Measures and processes to be implemented to ensure the health &amp; safety of workers and community</li> <li>• Measures to be implemented to minimise any airborne dust and asbestos</li> <li>• Methods and location of disposal of any hazardous materials (including asbestos)</li> <li>• Other measures to be implemented to ensure public health and safety</li> <li>• Date the demolition works will commence/finish.</li> </ul> </li> </ol> <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.</p> <p><i>Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m<sup>2</sup> of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a> in the Building &amp; Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

## DURING DEMOLITION WORK

Condition
<p>103. <b>Demolition Work and Removal of Asbestos Materials</b></p> <p>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 <i>demolition work plan</i>, which shall be maintained</p>

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on site and a copy is to be provided to the Principal Certifier and Council.

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

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),
- Asbestos waste must be disposed of in accordance with the *Protection of the Environment Operations Act 1997* and relevant Regulations
- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",
- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works,
- Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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

Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.

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## Development Application Report No. D79/25

**Subject:** 29 Stanley Street, Randwick (DA/1052/2025)

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### Executive Summary

<b>Proposal:</b>	Integrated Development for the demolition of existing structures, site preparations and tree removal to enable the construction of a 6-storey residential flat building comprising ten (10) apartments with an affordable housing component, rooftop communal terrace and three (3) levels of basement including nineteen (19) car parking spaces, bicycle and motorcycle parking, and associated ancillary, site and landscaping works
<b>Ward:</b>	North Ward
<b>Applicant:</b>	Paro Planning Pty Ltd
<b>Owner:</b>	Parseh Holdings Pty Ltd
<b>Cost of works:</b>	\$8,570,878.45
<b>Reason for referral:</b>	The development is subject to the Apartment Design Guide as the building is 3 or more storeys and contains at least 4 dwellings, and the development is contravening a development standard by greater than 10%.

### Recommendation

That the RLPP refuses consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/1052/2025 for *Integrated Development for the demolition of existing structures, site preparations and tree removal to enable the construction of a 6-storey residential flat building comprising ten (10) apartments with an affordable housing component, rooftop communal terrace and three (3) levels of basement including nineteen (19) car parking spaces, bicycle and motorcycle parking, and associated ancillary, site and landscaping works (Variation to Number of Storeys - Housing SEPP) (Integrated Development – WaterNSW) (LMR)*, at No. 29 Stanley Street, Randwick for the following reasons:

1. Pursuant to Section 4.15 1)(a)(i) of Environmental Planning and Assessment Act 1979, the Application fails to comply with the following environmental planning instruments:
  - 3D-1 - Communal and public open space;
  - 3F-1 - Visual privacy;
  - 4G – Storage
2. Pursuant to Section 4.47 of the *Environmental Planning and Assessment Act 1979*, concurrence and the general terms of any approval have not been provided by Water NSW in relation to dewatering, pursuant to Section 90(2) of the *Water Management Act 2000*.
3. Pursuant to Part 15, Division 1 Clause 256 of the Environmental Planning and Assessment Regulation the applicant has not made payment of the required assessment fees in relation to the concurrence referral.
4. Pursuant to Section 176(2) of the *SEPP (Housing) 2021*, the proposed variation to the number of storeys is not supported because of the non-compliance with the building separation controls in the *Apartment Design Guide*.
5. The proposal has not demonstrated compatibility with the desired future character of the precinct in accordance with Section 20(3)(b) of the *SEPP (Housing) 2021*.

6. Pursuant to Section 26(1) of the *Environmental Planning and Assessment Regulation 2021*, the applicant must specify the name of the registered community housing provider who will manage the affordable housing component of the development and has not provided this documentation for assessment.
7. The Application does not satisfy the Randwick Local Environmental Plan 2012, 1.2 Aims of the Plan 2 (a) & (d) or the objectives of the R3 zone as the consent authority is not satisfied the housing needs of the community will be met in a manner satisfactory to their amenity and the amenity of the surrounding locality. The Application is further considered inconsistent with the desired future character of the locality.
8. The proposal has failed to demonstrate a satisfactory outcome in accordance with the requirements and objectives of Clause 5.10 Heritage Conservation of the Randwick LEP 2012.
9. The proposed development results in excessive change to natural ground levels including excavation exceeding 1m, resulting in non-compliance with the objectives of Clause 6.2 Earthworks of the RLEP 2012.
10. The proposal has failed to demonstrate a satisfactory outcome in accordance with the requirements and objectives of Clause 6.11 Design Excellence of the Randwick LEP 2012.
11. Pursuant to Section 4.15(1)(a)(iii) of Environmental Planning and Assessment Act 1979, the Application does not comply with the following provisions under Randwick Comprehensive Development Control Plan 2013:
  - Part B2: Heritage
  - Part B4: Landscaping and biodiversity
  - Part B8: Water Management
  - Part C2 of the RDCP 2013
    - Section 2.2.1: Landscaped Open Space
    - Sections 2.3.1 and 2.3.2: Communal and Private Open Space
    - Section 3.3: Building Depth
    - Section 3.4.2: Side Setback
    - Section 4.1: Building Facade
    - Section 4.2: Roof Design
    - Sections 4.6 and 4.5: Internal circulation and pedestrian entry
    - Section 4.9: Colours and Materials
    - Section 4.12: Earthworks.
    - Section 5.1: Solar Access
    - Section 5.3: Visual Privacy
    - Section 5.6: Safety and Security
12. Pursuant to the provisions of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the likely impacts from the Application as detailed in this report are considered unacceptable.
13. Pursuant to Section 4.15(1)(c) of Environmental Planning and Assessment Act 1979, the Subject Site is not considered suitable for the proposed development and has not demonstrated that it is capable of facilitating the extent of development sought.
14. Pursuant to section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.
15. The applicant has failed to provide the following information to enable a full assessment of the proposal:



- a. Montage of demonstrating the proposed presentation of the development and integrate with the existing and future development in the streetscape
- b. Urban context study
- c. Front fence elevation and details
- d. Parking ventilation details


**Attachment/s:**

Nil

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Subject Site
Submissions received
 North
Locality Plan

**1. Executive summary**

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

- The development is subject to Apartment Design Guide as the building is 3 or more storeys and contains at least 4 dwellings.
- The development is contravening a development standard by greater than 10%.

The proposal seeks development consent for an *Integrated Development for demolition of existing structures, site preparations and tree removal to enable the construction of a 6-storey residential flat building comprising ten (10) apartments with an affordable housing component, rooftop communal terrace and three (3) levels of basement including nineteen (19) car parking spaces, bicycle and motorcycle parking, and associated ancillary, site and landscaping works.*

The key issues associated with the proposal relate to:

- The site being undersized for a development of the proposed scale. The site should be amalgamated with adjoining properties. The width of 13.7m is too small for a 6-storey development.
- No Community Housing Provider has been nominated to manage the affordable rental housing.
- The proposed building separation is inadequate. The side setback is proposed to be 2m from ground level to level 6. This does not comply with the Apartment Design Guide and is a particular concern for the upper 2 levels. The façade is only setback 1.8m from the western boundary.

- The depth of the basement is not supported and does not comply with the Earthworks Section of the RLEP. There are significant potential structural and geotechnical risks as a result of the proposal.
- The side setback of the basement is not supported and the proposed alignment compromises opportunities to accommodate additional deep soil zones for tree planting.
- The applicant has not paid the invoice in sufficient time for WaterNSW to request information and provide concurrence.
- Insufficient technical information has been provided for the construction and associated impacts of the basement.
- Insufficient urban design and contextual analysis has been provided, noting that this is a requirement under Section 20 (Design Requirements) of the Housing SEPP (Section 20 (3)(b)).
- There is no articulation of the proposed building envelope along the western façade.
- The design has insufficient amenity, including:
  - The pedestrian access is long and narrow and the lobby is small (not fit for purpose), does not have sufficient light and ventilation.
  - Bike storage and unit storage is inappropriately located.
  - A heavy reliance on privacy screens and obscured glazing.
  - On the upper levels along the eastern façade, the privacy screens have been orientated incorrectly to preserve privacy.
  - Unit 501 does not have a suitable POS at the same level. The POS on the roof terrace is not private or privately accessible.
- There are numerous unresolved design and technical matters:
  - Insufficient details for the basement storage rooms.
  - No montages or clear materials, colours and finishes schedule.

## 2. Site Description and Locality

The subject site is known as 29 Stanley Street, Randwick and is legally described as Lot 1 in DP 304856. The site is 569.1m<sup>2</sup>, is regular in shape and has a 13.715m frontage to Stanley Street to the North. The side boundaries to the east and west are 41.5m in length.

The site contains a single storey brick and stone residence with a tile roof. At the rear of the property there is an outbuilding. There is an existing crossover and driveway access down the eastern side of the property.

The site slopes approximately 1.8m from the north (frontage) to the south (rear). There is a slight crossfall across the frontage from RL 77.8 to RL 77.55.

To the east of the subject site is 31 Stanley Street, which is a two storey block of units, setback only 900mm from the common boundary with the development site. To the south is 42 Avoca Street, which is a large apartment complex that contains a large communal garden directly behind the development site. To the west is 27 Stanley Street, which is a single storey house and is located within the North Randwick Heritage Conservation Area.

Across the road to the north is a Heritage listed educational establishment, the Emanuel School.



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- **Figure 1:** Subject site - 29 Stanley Street, Randwick (Source: Council)

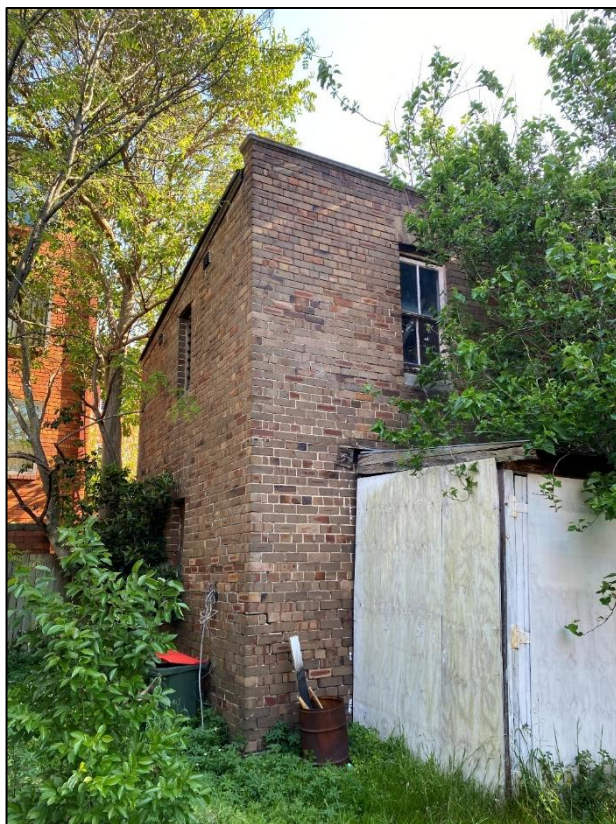


- **Figure 2:** Interface with eastern neighbouring property, 31 Stanley Street (Source: Council)





- **Figure 3:** Interface with 27 Stanley Street to the west (Source: Council)



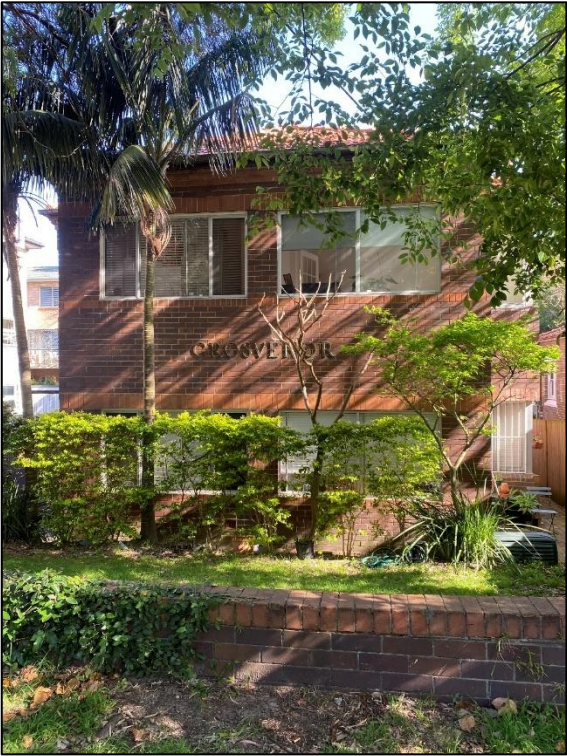
- **Figure 4:** Existing outbuilding in the rear garden (Source: Council)



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- **Figure 5:** View from rear garden towards 42 Avoca Street (Source: Council)



- **Figure 6:** Frontage of neighbouring property 31 Stanley Street (Source: Council)





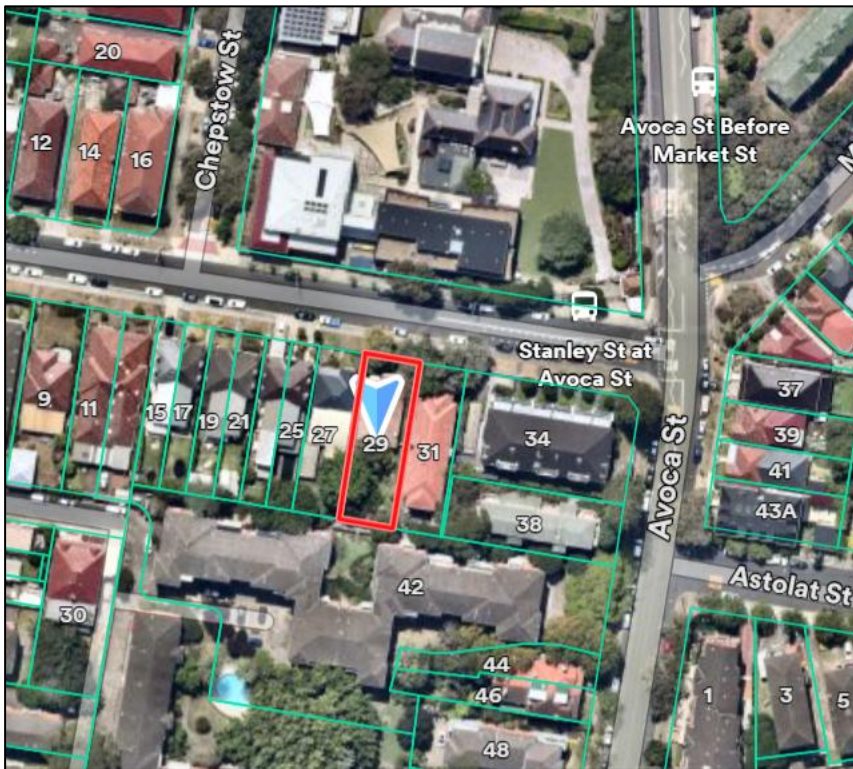
- **Figure 7:** Frontage of neighbouring property 27 Stanley Street (Source: Council)



- **Figure 8:** Existing outbuilding as viewed from 42 Avoca Street (Source: Council)



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**Figure 9:** Aerial Imagery of the subject site and surrounding development (Source: NearMap 2025)



**Figure 10:** Council Mapping showing the adjoining Heritage Conservation Area and the nearby Heritage Items (Source: Council)

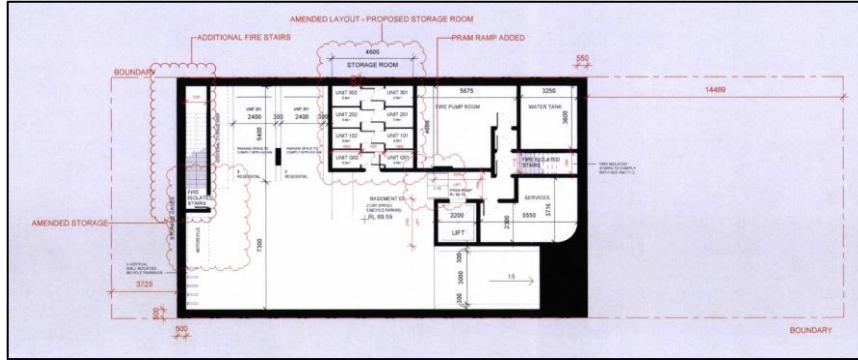
### 3. Relevant history

DA/625/2020 - Amended plans received: new basement level parking, reduction in number of storeys from four to three, pitched roof & a total of 6 x 2 bedroom apartments under Affordable Rental Housing. Original proposal: Demolition of existing structures & construction of a four storey residential flat building comprising 5 apartments, ground level car parking, landscaping & associated works (variation to building height of the RLEP 2012). Appeal Upheld (S34) 11/3/2022

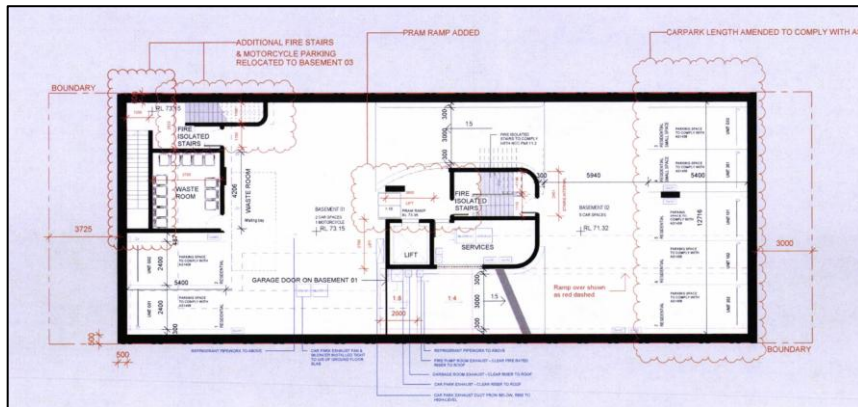
DA/427/2022 - Alterations and additions to the approved residential flat building including changes to the internal layout, reduction in common lobby size and increase in total units by two. Refused by Council on 23 February 2023 and then approved by LEC on 16 February 2024.

The above approval is similar in nature to the current proposal. However, the current proposal is seeking two additional levels of basement and two additional levels of units, with a roof top terrace at the upper level.

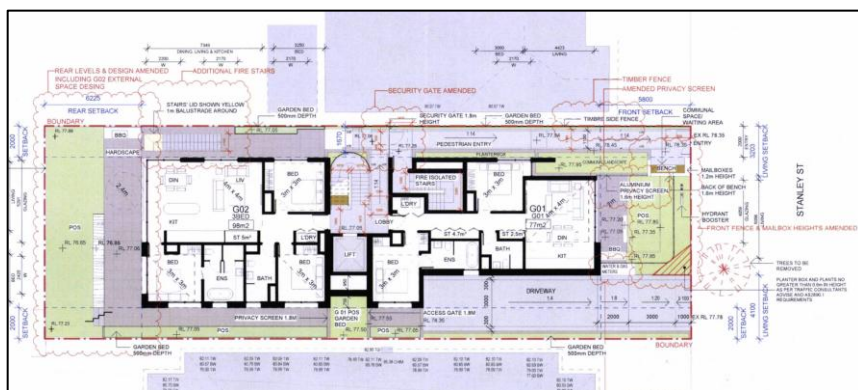
D79/25



- **Figure 11:** Second level basement plan (Source: DA/427/2022)

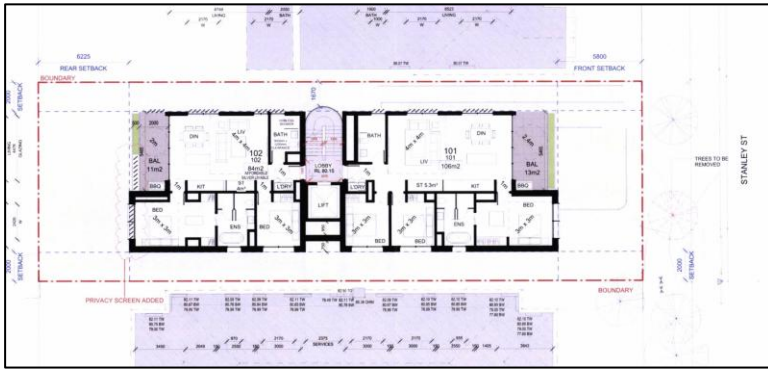


- **Figure 12:** First Level Basement Plan (Source: DA/427/2022)

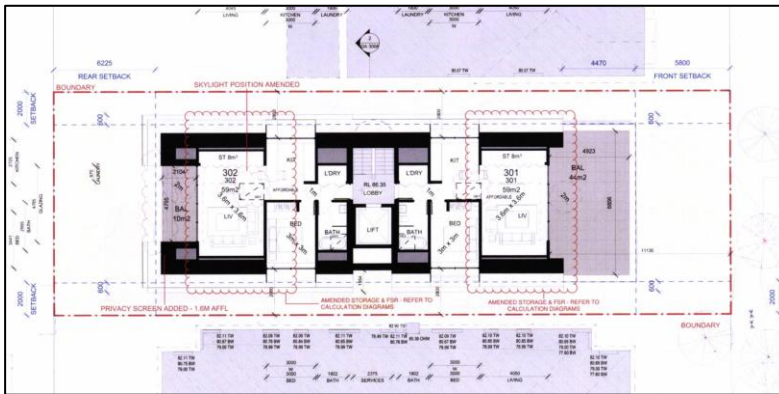


- **Figure 13:** Ground Floor Plan (Source: DA/427/2022)

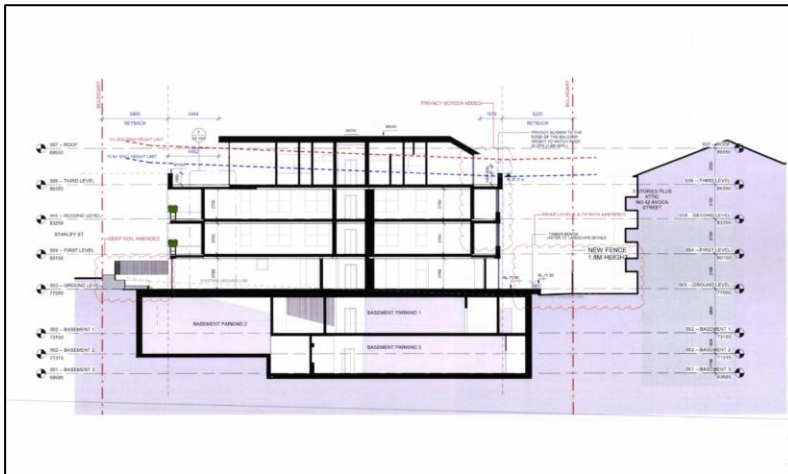




- **Figure 14:** First and Second Floor Plans (Source: DA/427/2022)



- **Figure 15:** 3rd floor plan (Source: DA/427/2022)



- **Figure 16:** Section of the approved development (Source: DA/427/2022)

#### 4. Proposal

The proposal seeks development consent for Integrated Development for the demolition of existing structures, site preparations and tree removal to enable the construction of a 6-storey residential flat building comprising ten (10) apartments with an affordable housing component, rooftop communal terrace and three (3) levels of basement including nineteen (19) car parking spaces, bicycle and motorcycle parking, and associated ancillary, site and landscaping works (Variation to Number of Storeys - Housing SEPP) (Integrated Development – WaterNSW) (LMR).



Specifically, the proposal is seeking:

Demolition of existing structures and removal of the trees within the site.

### **Basement Plan 3**

- Split level
- 6 Car parking spaces, waiting bay, 12 bicycle spaces, 1 motorcycle space
- 2 x separate areas for units storage.
- 2 x fire isolated stairs and a lift.

### **Basement Plan 2**

- Split level
- 7 car parking spaces, waiting bay
- Service room
- Apartment storage space.
- 2 x fire isolated stairs and a lift.

### **Basement Plan 1**

- Split level
- 7 car parking spaces
- 2 x fire isolated stairs and a lift.
- Waste Room
- Fire Pump room

### **Ground Floor**

- Driveway ramp to the basement levels (down the eastern side)
- Pedestrian access down the western side
- 2 x units:
  - o G1 – Affordable 2 bedroom with a courtyard to the front – North.
  - o G2 – 3 bedroom unit with courtyard to the rear (south)
- 2 x fire isolated stairs to the basement
- 1 x fire isolated stairs to the levels above.

### **1<sup>st</sup> floor**

- 3-bedroom (affordable) unit facing north, with a balcony on the frontage
- 2-bedroom (adaptable) unit facing south, with a balcony facing the rear
- Fire isolated stairs, lobby and lift.

### **2<sup>nd</sup> to 3<sup>rd</sup> Floor**

- 3-bedroom unit facing north, with a balcony on the frontage
- 2-bedroom (adaptable) unit facing south, with a balcony facing the rear
- Fire isolated stairs, lobby and lift.

### **4<sup>th</sup> 5<sup>th</sup> Floor**

- 3/4 bedroom unit with direct access from the lobby and lift.
- Front (north) facing terrace.

### **5<sup>th</sup> Floor**

- 3/4 bedroom unit with direct access from the lobby and lift.
- No terrace
- Very limited Private Open Space.

### **Roof top terrace**

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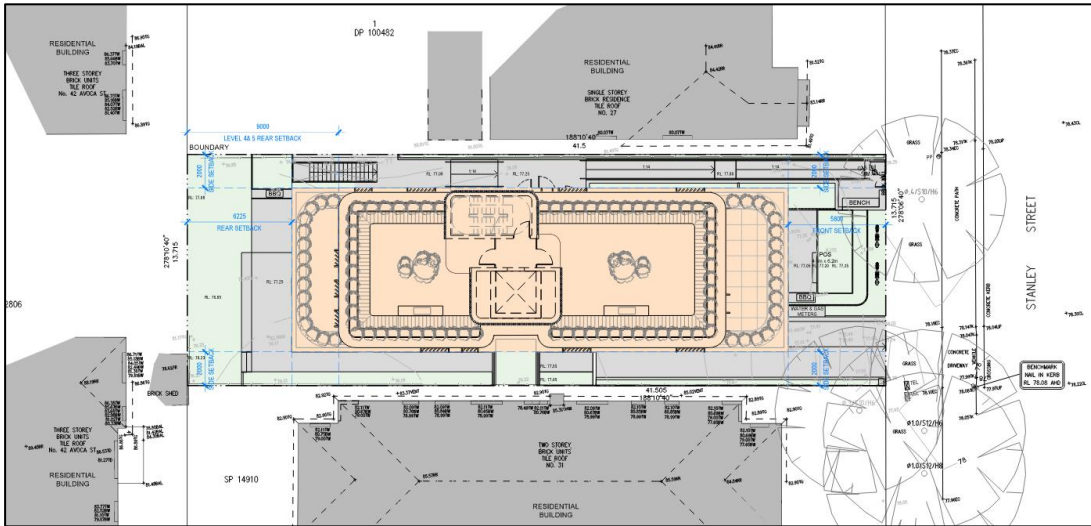


Figure 17: Site Plan for 29 Stanley Street (Source: Applicant)

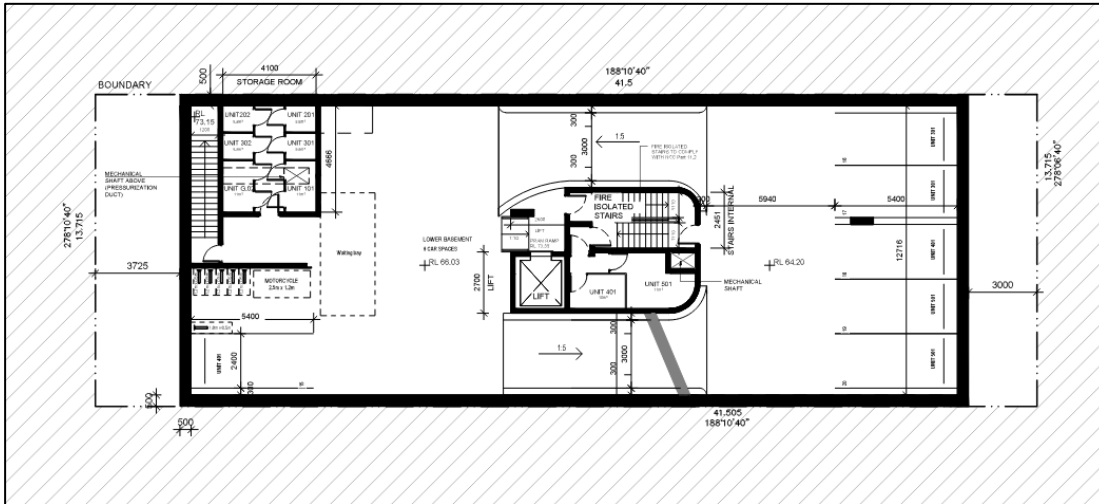


Figure 18: Basement Levels 6 and 5 – lowest levels (Source: Applicant)

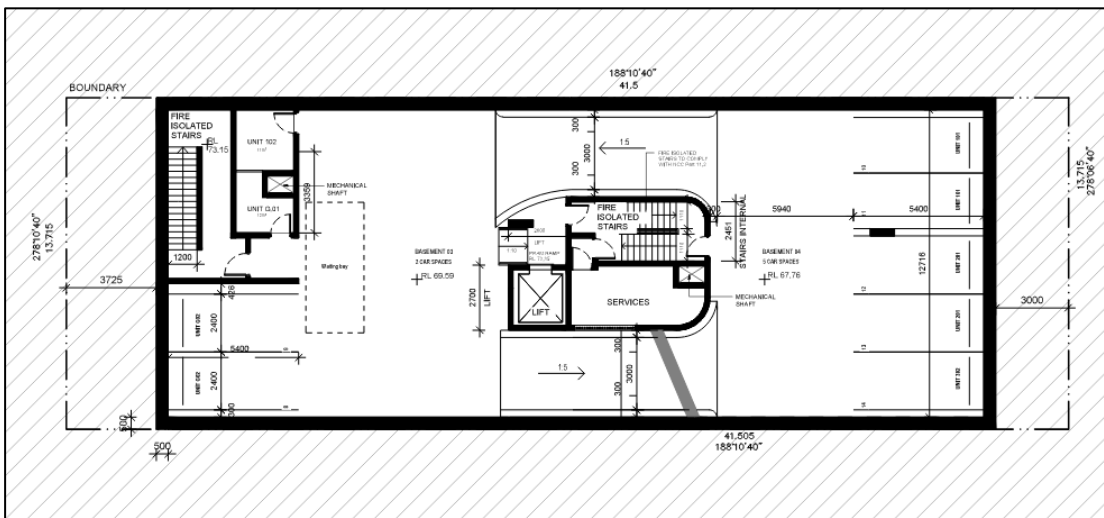
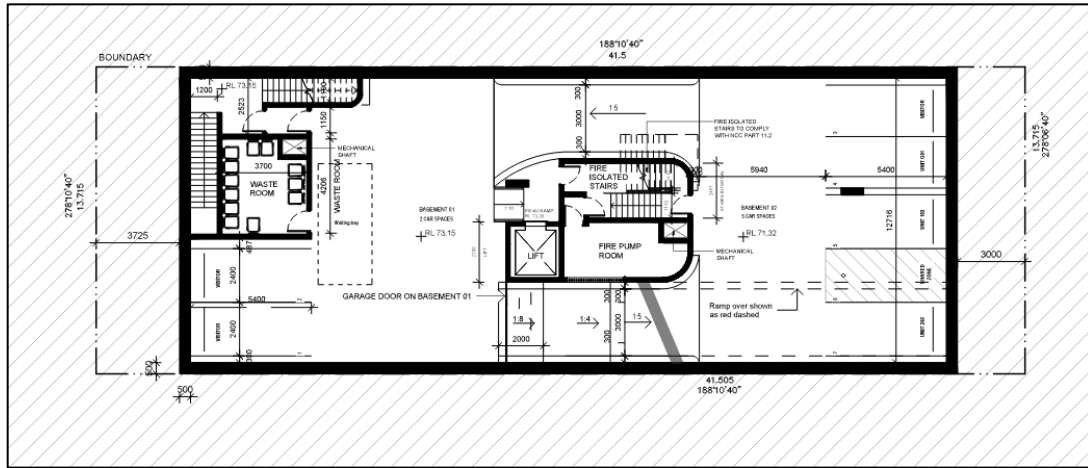
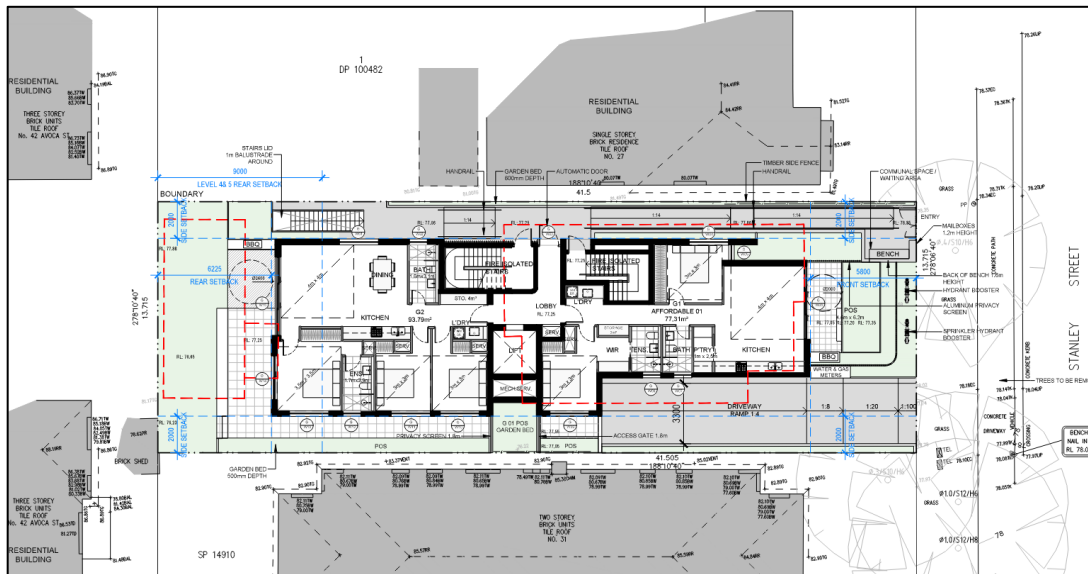


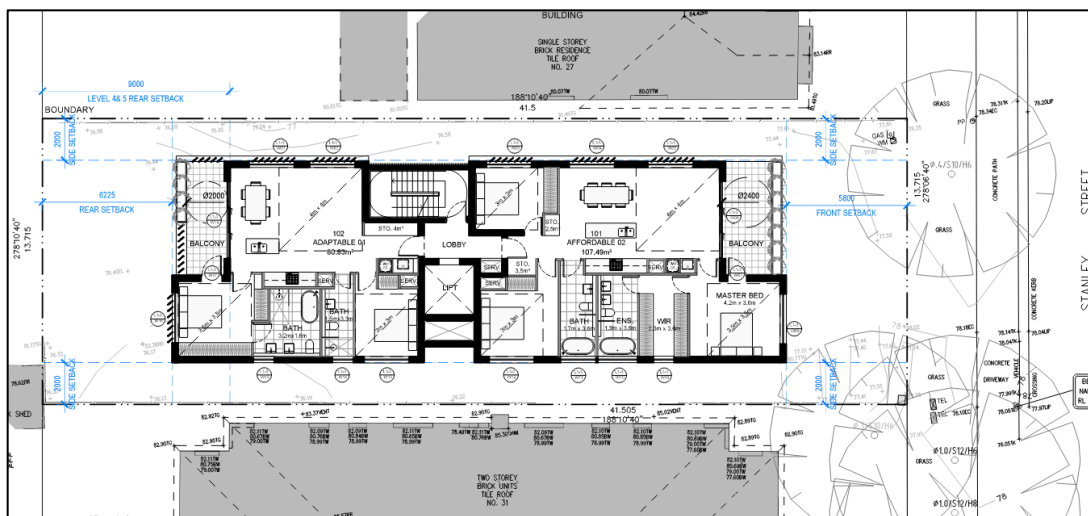
Figure 19: Basement Level 4 and 3 (Source: Applicant)



- **Figure 20: Basement Level 2 and 1 – entrance to the basement along the east (Source: Applicant)**



- **Figure 21: Ground Floor Plan (Source: Applicant)**



- **Figure 22: First Floor to third floor (Source: Applicant)**

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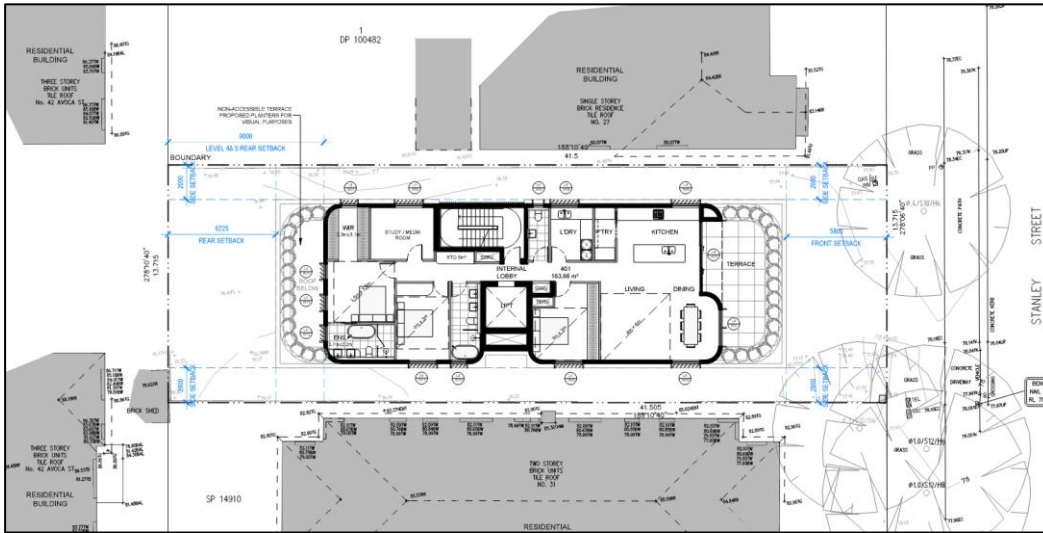


Figure 23: Fourth Floor (Source: Applicant)

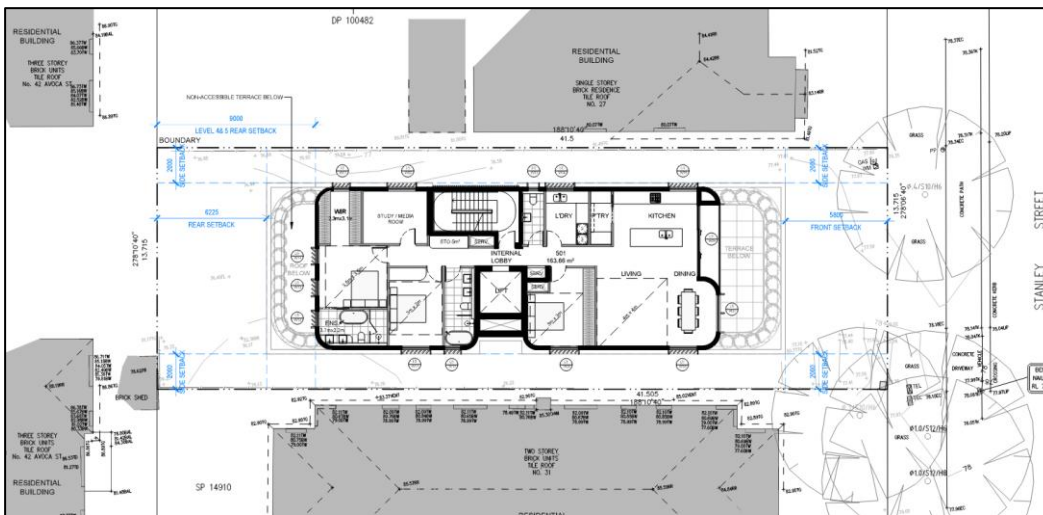


Figure 24: Fifth Floor (Source: Applicant)

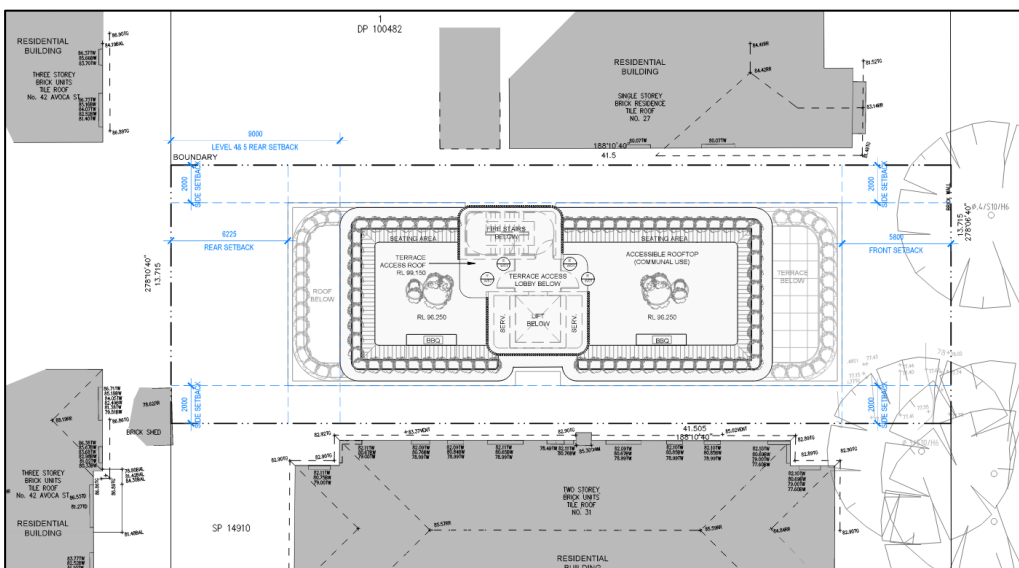
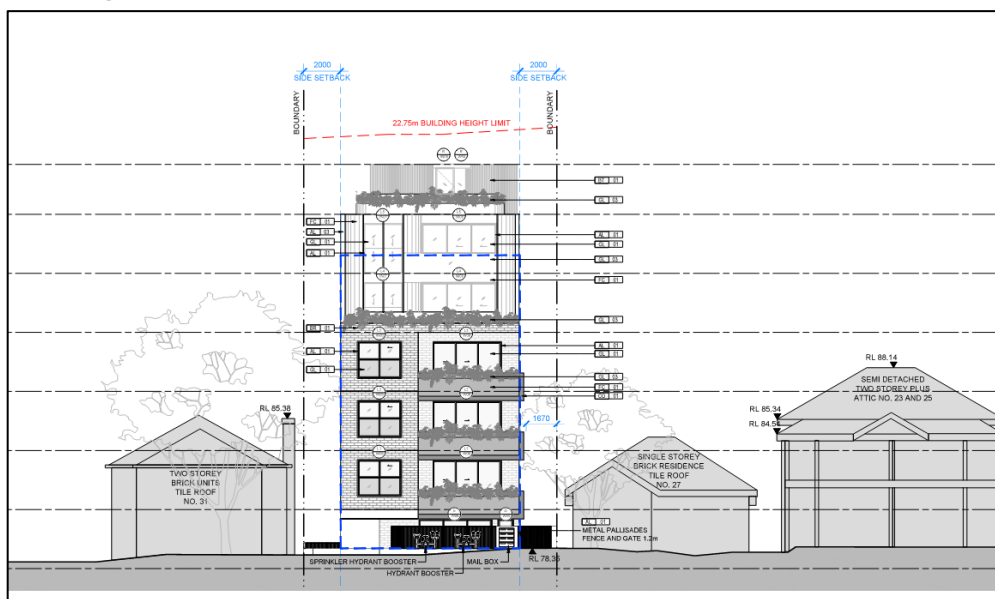


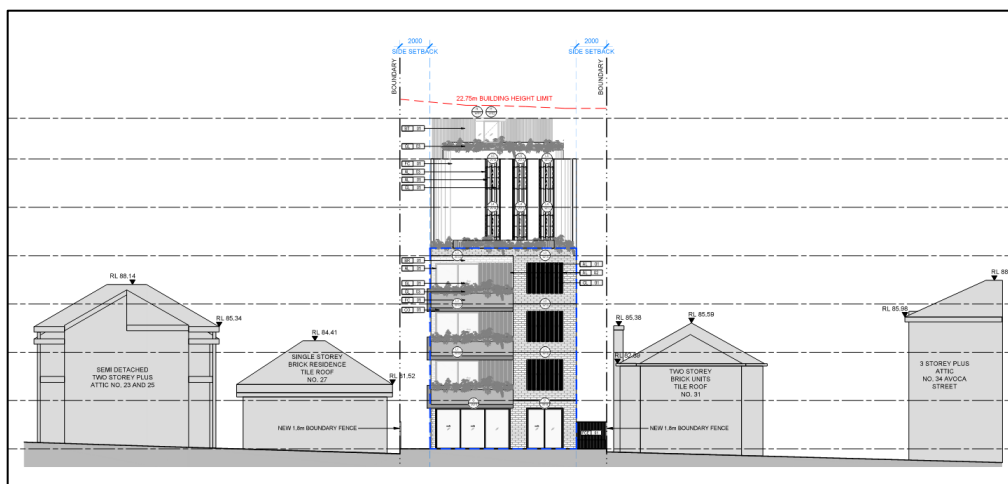
Figure 25: Roof Top Terrace – Private and Communal Open Space (Source: Applicant)



- **Figure 26:** Western Side Elevation (Source: Applicant)



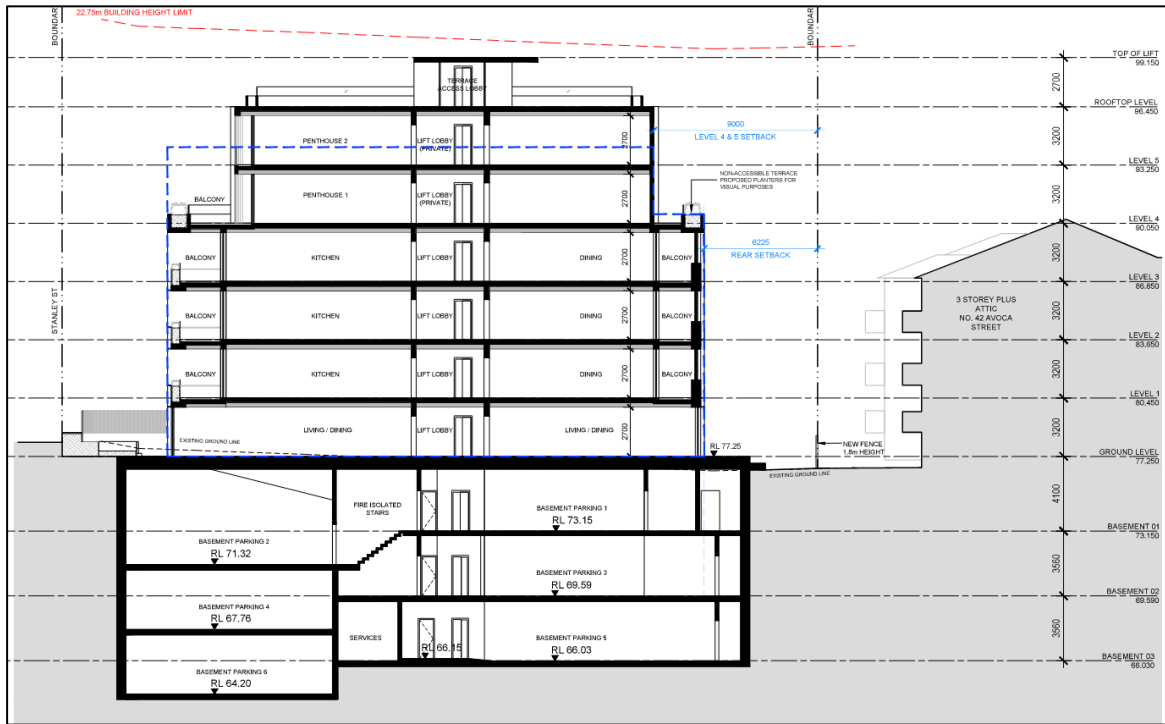
- **Figure 27:** Northern (Front) Elevation (Source: Applicant)



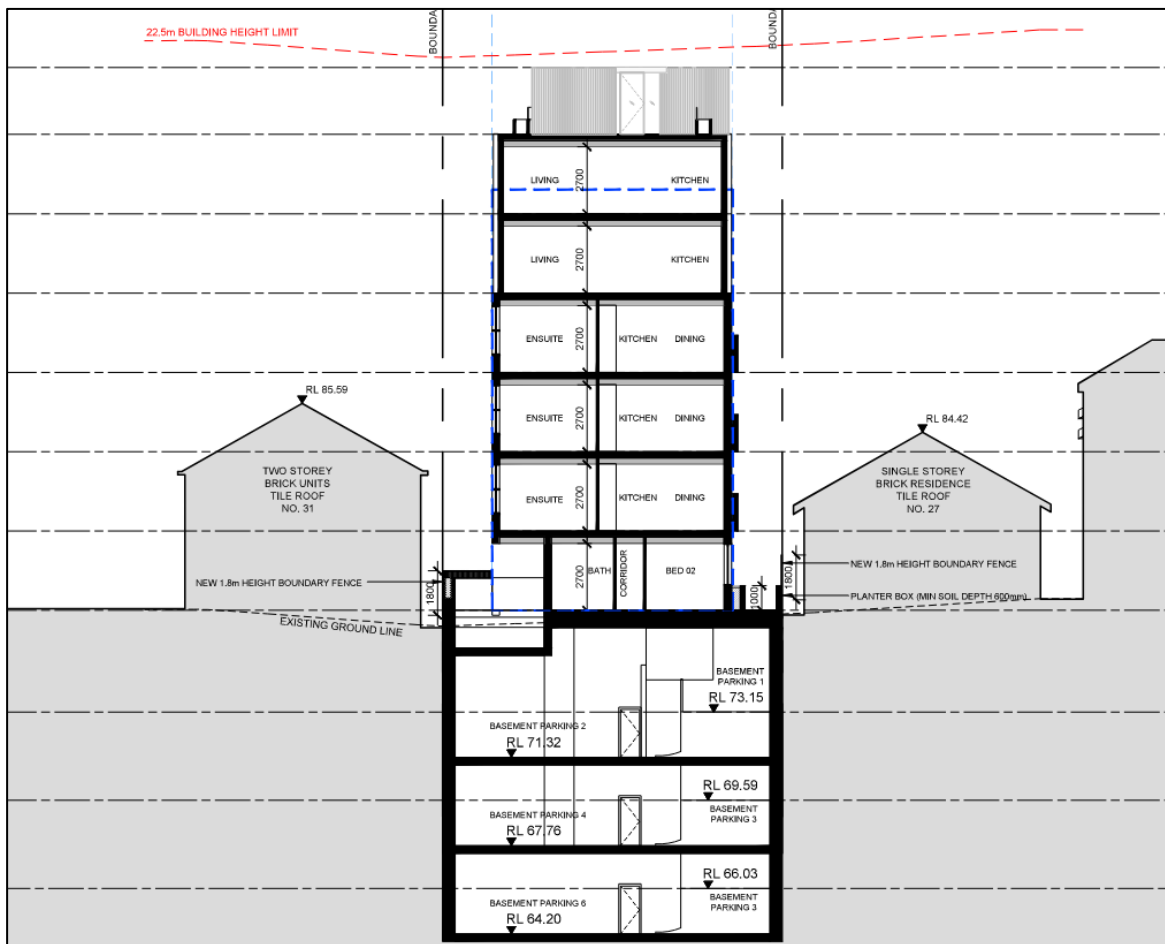
- **Figure 28:** Rear (south) Elevation (Source: Applicant)



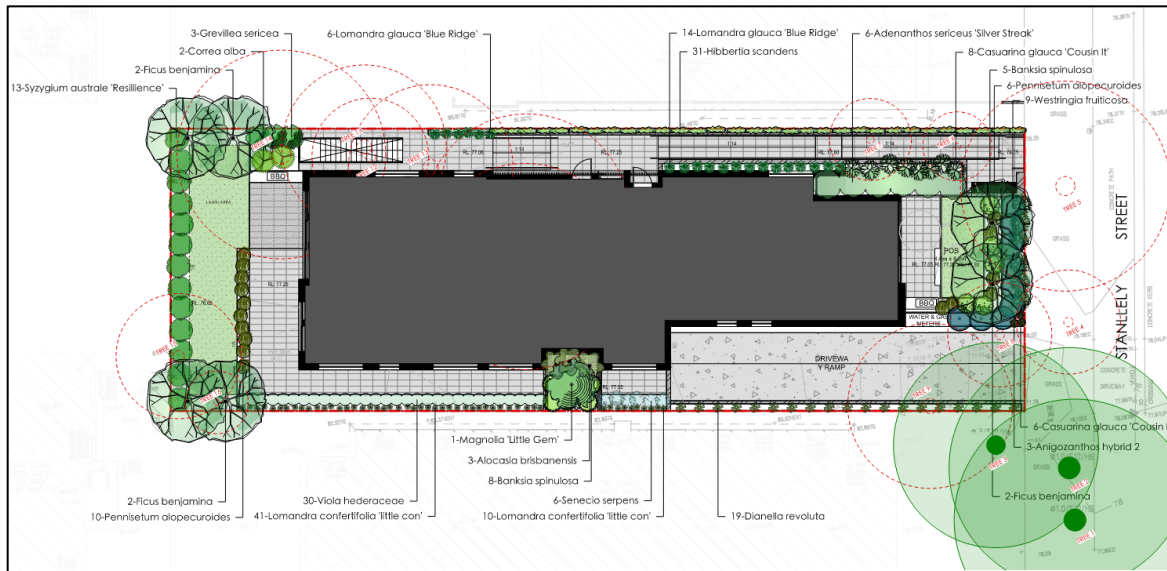
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- **Figure 29: Long Section (Source: Applicant)**



- **Figure 30: Section (Source: Applicant)**



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**Figure 31:** Landscape Plan (Source: Applicant)

**5. Notification**

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

- 7/31 Stanley Street, Randwick

Issue	Comment
<p>Excessively overshadowing to 31 Stanley Street.</p> <p>Reduce sunlight and natural ventilation.</p>	<p>The applicant has provided shadow diagrams of a “compliant building height” and the proposed shadow diagrams. No shadow diagrams of the existing development have been provided.</p> <p>It is difficult for these side facing (western) windows to receive sunlight, noting the site orientation.</p> <p>Notwithstanding, it is agreed that the proposed building separation is insufficient. However, it is also noted that 31 Stanley Street has a side setback of 900mm along this common interface.</p>
<p>Request dilapidation reports pre and post works.</p>	<p>Noted. That would be a condition of any future approval. However, the subject application is recommended for refusal.</p>
<p>What sort of guarantee will the developer be required to give if problems did arise.</p>	<p>The development is recommended for refusal. The extent of the basement is not supported. Any future approval would have conditions for dilapidation reports and suitable technical engineering and geotechnical investigations.</p>

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- 4 Chepstow Street, Randwick

Issue	Comment
The 6-storey building height is out of line with local building heights.	Agreed. Please see key issues section of this report.
Parking is very limited in the area. People do not always use their garages.	The parking provided by the development is above the required rate. However, the extent of the basement and scale of the development is not supported.
Structural damage to surrounding dwellings.	The scale and impacts of the earthworks have not been suitably demonstrated and are not supported.
Impacts during construction. School traffic obstruction, lack of parking, noise distress and pollution.	A Construction Management Plan would be required for any future approval.
Does the apartment comply with the “affordable housing”.	Any affordable housing component is required to be implemented for a minimum period of 15 years.  Any approval would condition that this was registered on the Title of the property.

- 2/31 Stanley Street, Randwick

Issue	Comment
How many affordable units will there be in this proposed development?	There are two affordable units proposed.
This building does not fit in with the surrounding units blocks in this area as it is way oversized in height.	Agreed. Please see the key issues section for a full assessment.
The depth of excavation for the basement is concerning.	Understood. Insufficient information and justification have been provided for the basement.
The vibration and noise to surrounding properties will be unbearable.	Presumably this is during construction works. This proposal is recommended for refusal.  Any future approval would include suitable conditions to manage the construction impacts.
No sun on the western side.	The applicant has provided shadow diagrams of a “compliant building height” and the proposed shadow diagrams. No shadow diagrams of the existing development have been provided.  It is difficult for these side facing (western) windows to receive sunlight.  It is agreed that the proposed building separation is insufficient. However, it is noted that 31 Stanley Street has a side setback of 900mm.

Issue	Comment
No privacy with the roof top terrace overlooking our building.	The roof terrace is too close to adjoining properties. The overlooking impacts are unclear and not supported.
Make congestion worse.	Noted. The development engineer has commented on the proposed parking and traffic impacts in the referral section below.

- 14 Chepstow Street, Randwick (Residents of 2 Chepstow Street)

Issue	Comment
Scale and character – height and density is inconsistent with the surrounding streetscape. <ul style="list-style-type: none"> <li>- Low rise one to three storey residential buildings.</li> <li>- Creation of a tall thin tower that would dominate neighbouring properties and set an undesirable precedent.</li> <li>- Significantly out of character with the adjacent North Randwick HCA.</li> </ul>	Agreed, please see the key issues section for a full assessment.
Traffic and Parking <ul style="list-style-type: none"> <li>- Directly opposite the Emanuel School Drop-off/ bus zone.</li> <li>- Increased traffic will impact safety.</li> </ul>	Noted.  Councils' Development engineer has reviewed the proposed parking and traffic. They are satisfied with the parking provision.  The proposal is however, recommended for refusal.
Privacy and overshadowing <ul style="list-style-type: none"> <li>- The buildings height, setbacks and window placement will result in unacceptable loss of privacy and overshadowing of nearby home and private open spaces.</li> </ul>	It is agreed that the visual privacy impacts from the ground floor are not acceptable.  In addition, Council does not support the building separation.  The overall built form is not supported.
Environmental and Amenity Impact <ul style="list-style-type: none"> <li>- The excavation for the 19 car basement is not sustainable and could impact adjacent properties as well as the ground water table.</li> <li>- Waste bin collection will adversely impact pedestrian safety and/or street parking due to the narrow street frontage.</li> </ul>	Agreed.  Suitable justification and technical reports/information has not been provided.
Planning <ul style="list-style-type: none"> <li>- The site is more than 800m from the Randwick Light Rail Station and more than 400m from the outer edge of the Randwick Town Centre.</li> </ul>	In accordance with the LMR mapping, the site is located within the 400-800m "outer area".

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Issue	Comment
<p>Building Code of Australia</p> <ul style="list-style-type: none"> <li>- The proposed fire separation at side boundaries are not in compliance and pose a safety risk to the neighbouring properties.</li> <li>- The street entry accessible lobbies and internal corridors are not in compliance with Access Codes.</li> </ul>	<p>The applicant is proposing performance solutions.</p> <p>Council does not support the lobbies and corridors.</p>
<p>Landscape</p> <ul style="list-style-type: none"> <li>- All existing trees will be removed</li> <li>- Proposed deep soil does not comply</li> <li>- Significant reduction in tree canopy</li> <li>- Contrary to urban heat and stormwater policies.</li> </ul>	<p>Council's Landscape Officer has reviewed the proposal and accepts the removal of the trees.</p> <p>The proposal does comply with the Housing SEPP deep soil requirements.</p> <p>A future proposal would require different planting and trees.</p>

**The following properties raised the same issues:**

- 31 Stanley Street, Randwick
- 1/31 Stanley Street, Randwick
- 5/31 Stanley Street, Randwick
- 6/31 Stanley Street, Randwick

Issue	Comment
<p>Cause excessive overshadowing, loss of light to unit.</p>	<p>Although the shadow diagrams do show very limited light being available to the west facing windows, this cannot be fully attributed to the development. It is also due to the orientation of these windows.</p>
<p>Reduce natural ventilation.</p>	<p>Noted, the building separation is not supported. However, 31 Stanley Street has a 900mm side setback along this interface.</p>
<p>Create structural risks</p> <ul style="list-style-type: none"> <li>- Includes piles and anchors that may extent onto neighbouring property without consent.</li> </ul>	<p>Insufficient information. Council is recommending refusal. See reasons outlined below.</p>
<p>No detailed groundwater or seepage management plan provided.</p>	<p>Agreed. Insufficient information.</p>
<p>Council should require the developer to lodge a security bond under Section 4.17(6) of the EP&amp;A Act.</p>	<p>Council is recommending refusal.</p>
<p>The SEE fails to address vibration, settlement, or adjoining property protection.</p> <p>The geotechnical report has not been updated from DA/945/2025.</p>	<p>Noted, Council is recommending refusal.</p> <p>See reasons for refusal for insufficient information on the excavation.</p>



Issue	Comment
<p>Unresolved Performance Solutions.</p> <p>Council should defer consent until compliance is independently verified.</p>	<p>Noted, Council is recommending refusal.</p> <p>Some of these aspects are not supported.</p>
<p>Loss of solar access</p> <ul style="list-style-type: none"> <li>- The rear western units will lose nearly all solar access throughout most of the year.</li> <li>- No solar at all for ground floor units.</li> </ul>	<p>Noted, Council is recommending refusal.</p>
<p>31 Stanley Street relies on external shared laundries and outdoor drying lines.</p> <p>The reduced solar gain and ventilation would increase heating and cooling energy consumption by 15 – 25%.</p>	<p>Noted, Council is recommending refusal.</p>
<p>The ground floor units on the western side of 31 Stanley Street are single aspect, with window openings solely on the western elevation.</p> <ul style="list-style-type: none"> <li>- Higher indoor humidity</li> <li>- Greater risk of condensation and mould formation.</li> </ul>	<p>Noted, Council is recommending refusal.</p>
<p>Council should impose compensatory sustainability measures under Section 4.17(1)(b). Developer contribution to energy efficiency upgrades.</p>	<p>Council is recommending refusal.</p>
<p>The development is inconsistent with the principles in Schedule 6 of the Housing SEPP.</p> <p>Developments must be compatible with surrounding character, minimise bulk, and preserve solar access.</p> <p>Proposal has an inconsistent character.</p>	<p>It is assumed that this is referring to the design principles for residential apartment development.</p> <p>As per the Design Excellence Advisory Panel comments, the proposal is not supported in terms of the design principles in the SEPP (Housing).</p>
<p>The visual bulk and loss of amenity are inconsistent with both local and state objectives for contextually responsive housing.</p> <p>The visual impact on 31 Stanley has not been properly considered.</p>	<p>Agreed, see key issues section and reasons for refusal.</p>
<p>No evidence of affordable housing.</p>	<p>The required information for the affordable housing provider has not been provided, this has been included as a reason for refusal.</p>

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- 34 Avoca Street, Randwick

Issue	Comment
Excessive building height and scale. <ul style="list-style-type: none"> <li>- Predominantly 2-3 storey buildings.</li> <li>- Proposed development will visually dominate nearby properties, eroding the character.</li> </ul>	Agreed. Please see the key issues section for a full assessment.
Loss of privacy and amenity <ul style="list-style-type: none"> <li>- Overlooking impacts into adjoining and nearby properties.</li> <li>- Diminish residential amenity.</li> </ul>	Noted, the upper levels, including the roof terrace building separation is not supported.
Overshadowing and loss of natural light	The proposal will not cause non-compliant sunlight access to the units at 34 Avoca Street.
Traffic, parking and access impacts. <ul style="list-style-type: none"> <li>- Additional strain on local streets, particularly Stanley St and Avoca St.</li> </ul>	This has been considered by Council's Development Engineer. Refer to comments in referral section below.
Precedent and inconsistency with Local Planning Intent.	Agreed, see key issues section and reasons for refusal.
Visual dominance and height disparity <ul style="list-style-type: none"> <li>- Rise well above surrounding 2-3 storey buildings.</li> </ul>	Agreed, see key issues section and reasons for refusal.
Potential contravention of LEP and DCP <ul style="list-style-type: none"> <li>- Height of buildings</li> <li>- Clause 4.6</li> <li>- Amenity controls</li> </ul>	The height of buildings is being sought under the SEPP (Housing).  No Clause 4.6 for height of buildings is required.

## 6. Relevant Environment Planning Instruments

### 6.1. SEPP (Housing) 2021

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

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

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

#### Design Excellence Advisory Panel (DEAP)

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

The DA was referred to the Design Excellence Advisory Panel for advice concerning the design quality of the development. The panels advice is contained in the referrals section of this report.

The advice was provided to the applicant in a letter outlining the issues with the application on 10 November 2025. This letter provided the applicant with a period of 1 week to withdraw the

application. The applicant confirmed in writing that they will not be withdrawing the application and requested Council to proceed with the determination.

The panel does not support the application, the conclusion on the panel’s advice is copied below.

*The Panel does not support the proposal in its current form. The design demonstrates excessive site yield expectations, insufficient building separation, and poor contextual integration within a constrained urban block. A fundamental reconsideration of the building massing, side setbacks, and basement configuration is required to achieve a compliant and contextually appropriate design outcome.*

Design Quality Principles

The comments provided by the DEAP (refer to Referrals section of this report) detail how each of the nine quality design principals have been considered in the proposal.

Apartment Design Guide

The table below provides an assessment of the proposal against the relevant design criteria contained in Parts 3 and 4 of the Apartment Design Guide (ADG). In cases where the development does not satisfy the relevant criteria, the design guidance has been used to determine whether the proposal still meets the relevant objectives. There are multiple non-compliances which do not meet the objectives and have therefore been used as reasons for refusal.

Affordable housing

Chapter 2, Part 2, Division 1 of the Housing SEPP outlines the Infill Affordable Housing requirements. The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

Section 19 outlines the non-discretionary development standards:

Requirement	Comment	Compliance
(a) Minimum site area of 450m <sup>2</sup>	The site area is 569.1m <sup>2</sup>	Yes.
(b) Minimum landscaped area that is the lesser of: (i) 35m <sup>2</sup> per dwelling, or (ii) 30% of the site area	This is defined as <i>a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</i>  Councils Landscape Officer confirmed that the proposal includes 30% landscaped area.	Yes.
c) Deep soil zone on at least 15% of the site area, where: (i) each deep soil zone has minimum dimension of 3m, and (ii) if practicable, at least 65% of the deep soil is located at the rear of the site	As per Section 19 (3) <i>Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.</i>  This is assessed under the ADG in Appendix 2.	N/A
(d) Living rooms and private open space in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter.	As per Section 19 (3) <i>Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.</i>  This is assessed under the ADG in Appendix 2.	N/A

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<p>(e) the following number of parking spaces for dwellings used for affordable housing:</p> <p>(i) for each dwelling containing 1 bedroom – at least 0.4 parking spaces,</p> <p>(ii) for each dwelling containing 2 bedrooms – at least 0.5 parking spaces,</p> <p>(iii) for each dwelling containing at least 3 bedrooms, - at least 1 parking space</p>	<p>A total of 2 affordable units or 16.8% (107.49m<sup>2</sup> + 77.31m<sup>2</sup>) of total GFA is to be allocated as affordable housing with the following breakdown:</p> <ul style="list-style-type: none"> <li>• 1 x 2-bedroom unit</li> <li>• 1 x 3-bedroom unit.</li> </ul> <p>Therefore, 1.5 spaces are required.</p> <p>3 parking spaces are provided, 1 for the 2-bed unit, 2 for the 3-bed unit.</p>	<p>Yes.</p>
<p>(f) the following number of parking spaces for dwellings not used for affordable housing –</p> <p>(i) for each dwelling containing 1 bedroom – at least 0.5 parking spaces,</p> <p>(ii) for each dwelling containing 2 bedrooms – at least 1 parking space,</p> <p>(iii) for each dwelling containing at least 3 bedrooms – at least 1.5 parking spaces,</p>	<p>The development proposes a total of 8 'market' units with the following breakdown:</p> <ul style="list-style-type: none"> <li>- 3 x 3-bedroom units</li> <li>- 2 x penthouse 3-bedroom units (with a study)</li> <li>- 3 x 2-bedroom units</li> </ul> <p>The required parking spaces are 10.5 spaces.</p> <p>Car parking spaces provided are 20 in total. Since 3 are provided as affordable, this means 17 are otherwise provided for the remaining residential component.</p>	<p>Yes.</p>
<p>(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development</p>	<p>Assessed in appendix 2 against the ADG.</p>	<p>Yes - ADG</p>

**Section 20 – Design Requirements**

*(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—*

- (a) the desirable elements of the character of the local area, or*
- (b) for precincts undergoing transition—the desired future character of the precinct.*

Due to the low and mid rise planning controls, the area is considered to be undergoing transition. Therefore, the desired future character of the precinct must be considered.

The application has not sufficiently considered this. See the key issues section for more detail.

**Section 21 – Must be used for affordable housing for at least 15 years.**

No community housing provider has been nominated by the applicant. See the key issues section for more detail.

Under Chapter 2, Part 2, Division 1 of the Housing SEPP (In-fill Affordable Housing) there are provisions for additional floor space ratio and building height by the provision of affordable housing.

Under the *SEPP (Housing) 2021*, the minimum affordable housing component is 10%.

The proposal is providing 2 units as affordable housing. These units are  $107.49\text{m}^2 + 77.31\text{m}^2 = 184.8\text{m}^2$ , the total GFA is  $1095.35\text{m}^2$ . This results in 16.8% of the development being affordable housing.

The development is seeking the full 30% Floor Space Ratio and Building Height bonuses. However, as detailed throughout this report, the built form is not supported. The site is not suitable for a 6-storey building with a roof terrace due to the narrow frontage and the surrounding built form context.

Low- and mid-rise housing

Chapter 6 of the Housing SEPP aims to encourage development of low- and mid-rise housing in areas that are well located with regard to goods, services and public transport.

The proposed development is located within the “outer area” which is land between 400m – 800m of:

- (a) land identified as “Town Centre” on the [Town Centres Map](#), or
- (b) a public entrance to a railway, metro or light rail station listed in Schedule 11, or
- (c) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station.

Part 4 of Chapter 6 relates to Residential Flat Buildings; Section 176 contains the development standards for the outer area.

Section 180 contains the non-discretionary development standards for RFB’s in R3.

Clause	Development Standard	Proposal	Compliance (Yes/No)
Section 180 (3)(a): Floor space ratio (max) Affordable Housing Bonus of 30%	1.95:1 Limit is 1109.745m <sup>2</sup>	1095.35m <sup>2</sup> (1.92:1).	Yes.
Section 180 (3)(b) Building height (max) Affordable Housing Bonus of 30%	22.75m.	22.72m.	Yes.

Section 177 requires Council to consider the *Tree Canopy Guide for Low and Mid Rise Housing*, published by the Department in February 2025 before granting consent. Council’s Landscape Officer has confirmed that the application would be capable of suitably achieving this.

**Section 149 – Apartment Design Guide prevails over the Development Control Plan**

Furthermore, Clause 149 of Chapter 4 of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide (ADG) in relation to matters at (a) to (h) below, and that where there is any inconsistency the provisions within the ADG prevail.

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.



In addition, Clause 148(2) of the SEPP states that a development application cannot be refused if it complies (equal to or greater than the recommended minimums) with the prescribed criteria of the Apartment Design Guide in relation to ceiling heights, parking and internal apartment sizes.

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

A BASIX certificate has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and the Sustainable Buildings SEPP. The submitted BASIX Certificate includes a BASIX materials index, which calculates the embodied emissions and therefore the consent authority can be satisfied the embodied emissions attributable to the development have been quantified.

**6.3. SEPP (Biodiversity and Conservation) 2021**

Chapter 2 of the SEPP applies to the proposal and subject site. The aims of this Chapter are:

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

The proposed development involves the removal of vegetation. Council’s Landscape Development Officer reviewed the proposal and confirmed support for the proposed removal of vegetation. However, the proposed landscape treatments were not supported by Council’s technical officer, see the key issues section for further details.

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

Chapter 4 - Remediation of Land

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

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

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

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

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

The proposal is inconsistent with the specific objectives of the zone in that the proposed activity and built form will impact the aesthetic character and the amenity of the local residents.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.9:1	1.92:1	Complies with SEPP Housing.

CI 4.3: Building height (max)	12m	22.72m	Complies with SEPP Housing.
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**As per Section 3.28 of the Environmental Planning and Assessment Act 1979:**

- (1) *In the event of an inconsistency between environmental planning instruments and unless otherwise provided—*
- (a) *there is a general presumption that a State environmental planning policy prevails over a local environmental plan or other instrument made before or after that State environmental planning policy,*
- (b) *(Repealed)*
- (c) *the general presumptions of the law as to when an Act prevails over another Act apply to when one kind of environmental planning instrument prevails over another environmental planning instrument of the same kind.*

Therefore, the SEPP (Housing) 2021 prevails over the RLEP 2012 and the higher FSR and Height of Buildings apply.

**6.5.1. Clause 5.10 - Heritage conservation**

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

There are concerns that the scale and bulk of the proposal is inconsistent with RLEP and RDCP guidelines including:

- the two-three storey scale of adjoining development within the heritage conservation area to the west, and with the two and three storey scale of development to the east
- the six-storey development will have a significant visual impact on the views to and from SHR item Emanuel School, setting and streetscape character

The proposal in its current scheme is not supported from a heritage perspective, further information i.e. photomontages are required to be submitted to Council for review to ensure that the development does not have any significant adverse impact on the SHR item, setting, and streetscape character.

**6.5.2. Clause 6.2 - Earthworks**

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

The proposal involves excavation works up to 14m depth to accommodate the basement garage.

The development does not satisfy clause 6.2(3) in that:

- Insufficient information has been provided to demonstrate that the proposal will minimise impact on drainage patterns, soil stability, and adjoining structures;
- The proposed excavation area is not suitably scaled for the subject site and is likely to have an adverse impact on the likely future use or redevelopment of the land;
- The proposed excavation will likely result in an adverse impact on the amenity of adjoining properties;
- The scale and siting of the proposal does not minimise impact on waterways, water catchments, and environmentally sensitive areas, noting that the proposal is an integrated development and WaterNSW has not had the opportunity to request information and receive a response from the applicant.

## 7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Housing SEPP 2021:

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 176 (2)	4 Stories	6 Stories	2 stories	50

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

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

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

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

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

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

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

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

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

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

The grounds relied on by the applicant in their written request must be "environmental planning grounds" by their nature. Chief Justice Preston at [23] notes the adjectival phrase

“environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EPA Act.

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

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

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

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

#### **7.1. Exception to the Number of Storeys development standard (CI 176(2))**

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

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

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

Section 162 (Chapter 6) of the Housing SEPP states:

*“The aim of this chapter is to encourage the development of low and mid rise housing in areas that are well located with regard to goods, services and public transport.”*

There are no objectives relating specifically to the maximum number of stories standard. Therefore, the principles of the Housing SEPP Policy have been addressed.

- (a) *enabling the development of diverse housing types, including purpose-built rental housing,*
- (b) *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- (c) *ensuring new housing development provides residents with a reasonable level of amenity,*

- (d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) *minimising adverse climate and environmental impacts of new housing development,*
- (f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) *supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- (h) *mitigating the loss of existing affordable rental housing*

Applicant's Justification:

*The proposed residential flat building will provide for a greater number of housing options and housing diversity in a growing area that is well located with regards to goods, services and public transport, that will meet the needs of households in need of housing. It also provides high amenity for future residents in compliance with Apartment Design Guide (ADG) and Chapter 4 Design of Residential Apartment Development of the Housing SEPP. Furthermore, no existing affordable housing is being reduced, and the proposal does not result in any adverse climate or environmental impacts.*

*Importantly, while the proposal exceeds the maximum number of storeys control. The built form respects the intended massing outcome and achieves the visual and environmental objectives the storey limit is intended to support.*

*Importantly, while the proposal exceeds the maximum number of storeys control, it complies with the 22.75m height limit under Clause 16(3) of the Housing SEPP. The built form respects the intended massing outcome and achieves the visual and environmental objectives the storey limit is intended to support.*

*For the above reasons, I am of the view that the variation requested, and the resultant development is consistent with the objectives of the development standard, and an appropriate degree of flexibility is warranted. Consequently, I conclude that strict compliance with the development standard is unreasonable and unnecessary.*

Assessing officer's comment: The proposal does not comply with the ADG or Chapter 2 or 4 of the Housing SEPP. The proposal does not provide sufficient amenity of residents, as the proposal has fire screens across the windows due to the minimal building separation incorporated. The proposal does not meet the massing outcomes and does not comply with the building separation controls.

In conclusion, the applicant's written request has **not** adequately demonstrated that compliance with the number of stories development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

**1. Provision of additional Housing Density**

- a) *In accordance with the aim of Chapter 5 and 6 of the Housing SEPP, the proposal seeks to maximise residential density on a well-located site through the delivery of a high-quality apartment development. The design responds to the intent of the SEPP*



*by promoting efficient land use, increased housing supply, and diverse dwelling types in an accessible urban setting.*

- b) The proposed built form respects the intended massing outcome of the control in that it complies with the 22.75m height limit under Clause 16(3) of the Housing SEPP.*
- c) Strict compliance with the number of storey standard would necessitate either the removal of apartments and/or high-quality communal open space, or the redistribution of floor space, resulting in smaller, lower-quality apartments on lower levels. Both outcomes would be contrary to the Aim of Chapter 6, which seek to encourage the development of low and mid rise housing in areas that are well located with regard to goods, services and public transport.*

Assessing Officer comments: The upper two levels (stories to be varied) do not comply with the building separation requirements in the Housing SEPP. They do not have adequate articulation. They have fire screens across the side windows and eastern screens face the wrong way to capture the northern sunlight. Unit 501 does not have accessible POS. In summary, there are numerous non-compliances with these upper two levels.

## **2. Compatibility with Desired Future Character**

- a) The proposed development is consistent with the precincts' medium-density character and emerging higher density forms under the Housing SEPP framework.*
- b) The proposed variation can also be considered compatible with other forms of development in the visual catchment which assists in being compatible with the desired future character.*

Assessing Officer Comments: the proposal is not consistent with the precinct's medium density character. The neighbouring properties are: (East – two storey block of flats) (south- three storey block of flats) (west – single storey dwelling). No sufficient analysis of the future character of the area has been conducted.

The proposal is not considered to be compatible with the other forms of development in the visual catchment.

## **3. The non-compliance will have no material impacts on the surrounding development**

- a) It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:
  - The design supports functional living environments for future residents, incorporating compliance with ADG and Housing SEPP controls for solar access, natural ventilation, privacy, and open space.
  - The storey count breach does not result in additional overshadowing, privacy or view loss impacts to adjoining development when considered against the backdrop of a compliant building envelope formulated by the 22.75m height limit
  - The proposal exceeds the maximum number of storeys control, however it complies with the 22.75m height limit under Clause 16(3) of the Housing SEPP.
  - The built form respects the intended massing outcome and achieves the visual and environmental objectives the storey limit is intended to support.

Assessing Officers comments: The above assessment has not considered the non-compliance with building separation. It has not commented on the fire screens across the windows or lack of accessible POS.

The argument that the additional storeys doesn't cause overshadowing compared to the LEP height limit is not supported. The upper two levels are non-compliant with the building separation requirements, and this is considered to increase overshadowing.

The massing and visual outcomes are not considered to be achieved by the proposal.

#### 4. Orderly and economic use of land

- a) *The social benefits of providing a development that improves the functionality and amenity of the residential flat development should be given weight in the consideration of the variation request.*
- b) *Given the nature of the previously approved building envelope at site, strict numerical compliance with the number of storey standard would sterilise part of the site's permissible height and undercut housing delivery in an area identified for increased capacity.*

Assessing Officers comments: The additional storeys are not considered to increase the functionality and amenity of the RFB. An improved design can be achieved without these additional levels.

It is acknowledged there is an approval on the site, however, the site width is too small and constrained to add these additional levels.

#### 5. The proposal meets aim and objectives of key planning documents.

- a) *The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone (detailed in the accompanying Statement of Environmental Effects);*
- b) *The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:*
  - *The proposal promotes the orderly and economic use and development of land through the proposed works provide additional residential accommodation that better meet the needs and significantly improve the living amenity opportunities of the residents (1.3(c));*
  - *The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).*

Assessing officer's comment: The proposal will not positively contribute to the desired future character of the area or protect the amenity of residents in the zone.

The development does not achieve the objects of Section 1.3 of the EPA Act. Does not significantly improve the living amenity opportunities of the residents.

As per the DEAP comments, the proposal does not promote good design or amenity and is not a well-considered design for the setting and context.

In conclusion, the applicant's written request has **not** adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

## Conclusion

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

**8. Development control plans and policies**

**8.1. Randwick Comprehensive DCP 2013**

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

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

Clause 149 of Chapter 4 of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide (ADG) in relation to matters at (a) to (h) below, and that where there is any inconsistency the provisions within the ADG prevail.

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

In addition, Clause 148(2) of the SEPP states that a development application cannot be refused if it complies (equal to or greater than the recommended minimums) with the prescribed criteria of the Apartment Design Guide in relation to ceiling heights, parking and internal apartment sizes.

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

**9. Environmental Assessment**

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 4 and the discussion in key issues below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant residential character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

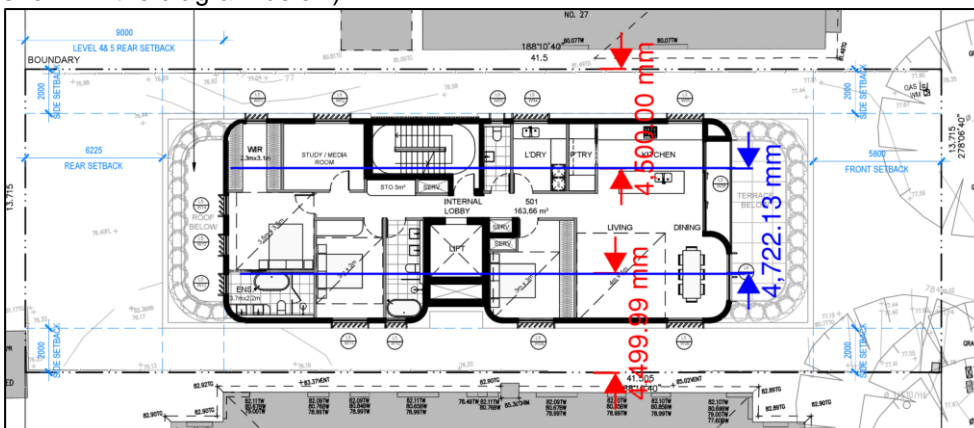
**9.1. Discussion of key issues**

The site is undersized for the proposed scale of the development

The site frontage is 13.715m. Therefore, for stories 4 and 5 (above 12m in height) the required building separation under the Apartment Design Guide is 18m between habitable rooms/balconies, 12 between habitable and non-habitable, and 9m between non-habitable and non-habitable.

If this was shared equally with adjoining properites who redeveloped in a similar nature, the required side setback would be 9m. It would be impossible to redevelop with these setbacks, due to the width of the site.

Even with a non-habitable to non-habitable interface, the side setback is required to be 4.5m, rather than 2m. This would leave only approx 4.8m width for development – which is also not feasible (as shown in the diagram below).



- **Figure 32:** Markup showing a 4.5m side setback, leaving insufficient space for living (Source: Council)

The medium density DCP did not anticipate a building height of 22.75m, instead it anticipated a maximum building height of 12m, as per the RLEP height limit. Therefore, the use of a 2m side setback above 12m is not compliant with the RDCP. The DCP also has a clause stating that additional side setbacks are required above the minimum standards to provide building separation.

#### Community Housing Provider nomination

Under the Environmental Planning and Assessment Regulation 2021, Section 26 (1) the applicant must specify the name of the registered community housing provider who will manage the affordable housing component of the development.

Council requires evidence of engagement with a Community Housing Provider (CHP) at the DA stage to confirm that the CHP has reviewed the proposal and considers it appropriate. This has not been provided by the applicant.

#### Depth of the Basement / Extent of Earthworks proposed

Section 6.2 (3) (earthworks) of the RLEP requires:

*Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

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

#### **Councils assessment:**

- Insufficient information has been provided to demonstrate that the proposal will minimise impact on drainage patterns, soil stability, and adjoining structures;
- The proposed excavation area is not suitably scaled for the subject site and is likely to have an adverse impact on the likely future use or redevelopment of the land;
- The proposed excavation will likely result in an adverse impact on the amenity of adjoining properties;
- The scale and siting of the proposal does not minimise impact on waterways, water catchments, and environmentally sensitive areas, noting that the proposal is an integrated development and WaterNSW has not had the opportunity to request information and receive a response from the applicant.

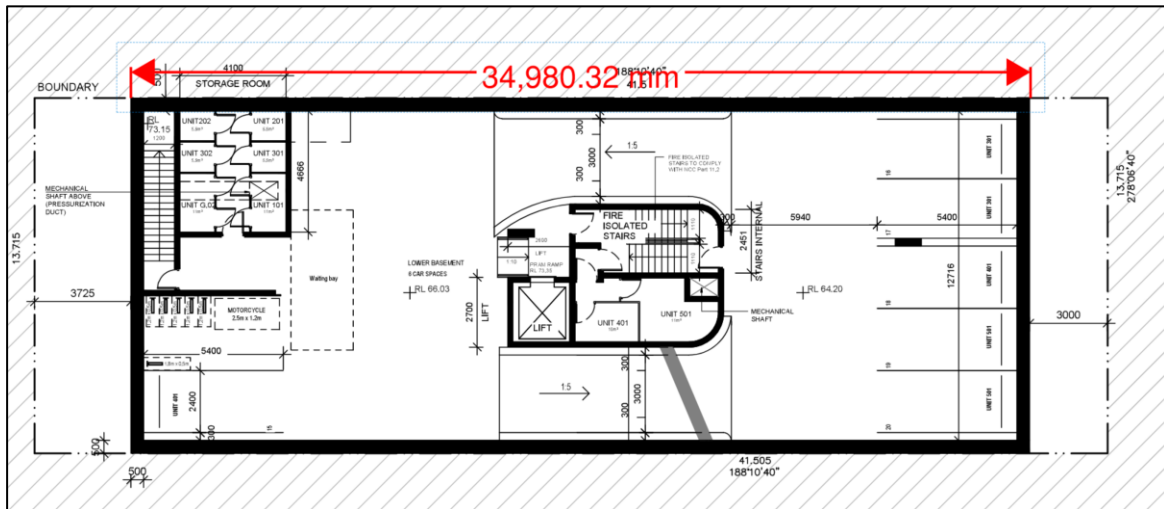
Section 4.12 of Part C2 of the RDCP states:

*Control iv) Setback the outer edge of any excavation, piling or sub surface walls a minimum of 900mm from the side and rear boundaries. The thickness of retaining walls and indicative footing locations must be shown on the drawings.*



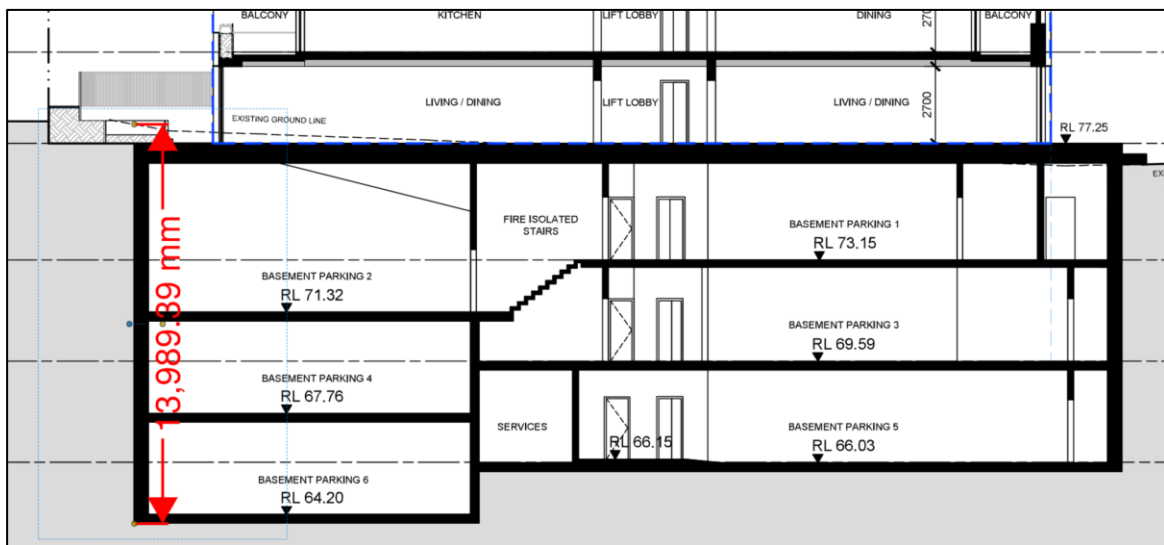
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The retaining walls of the basement are not setback from the side boundaries, as shown below.



- **Figure 33:** Lowest level of basement floor plan (Source: Applicant)

The thickness is said to be 500mm, however, the applicant has not responded to WaterNSW’s request for further information, to clarify how the groundwater flows will be managed.



- **Figure 34:** Section of the basement demonstrating the depth of excavation (Source: Applicant)

The objectives of the earthworks controls are:

- *To maintain or minimise change to the natural ground levels.*
- *To ensure earthworks do not result in adverse stormwater impacts on the adjoining properties.*

The proposal has not maintained or minimised the changes to the natural ground levels. The applicant has not paid the invoice for WaterNSW to conduct the integrated development assessment (as of 18 November 2025).

Variation to the number of stories

As discussed in detail in the Clause 4.6 Variation Section of this report, the requested variation to the number of stories (under the SEPP Housing) is not supported.

In summary, the key reasons are:

- The built form does not respect the intended massing outcome.
- It is not compatible with the desired future character or the existing development.
- The non-compliances of these upper levels, such as building separation do result in additional impacts on surrounding properties.
- Not consistent with the R3 – Medium Density Residential objectives.
  - Doesn't contribute to the desired future character of the area.
  - Doesn't protect the amenity of residents.

Inconsistent with Chapter 2 of the SEPP Housing:

The development is not in accordance with Section 20 (3)(b) – it is not considered to be compatible with the desired future character for areas undergoing transition.



- **Figure 35:** Oblique view of development site and surrounding development (Source: NearMap 2025)

As stated in the applicant's design quality principles, the area of Randwick is characterised by 2 – 4 storey RFB's and two storey dwellings.

The applicant has not provided a sufficient urban context report or investigation of how the proposal would be consistent with the desired future character of the precinct. The SEE has simply stated it is consistent without any detailed urban design analysis or investigation.

The site adjoins a Heritage Conservation Area.

There are no six-storey apartment buildings in the precinct. There are no multi-level basements on a site of proposed size in the immediate locality and as such the proposal has not demonstrated an outcome that is consistent with the desired future character.

Visual Privacy

Along the eastern side elevation there are numerous windows facing directly towards 31 Stanley Street. The boundary fence does not sufficiently obscure the views into 31 Stanley Street at the ground floor level. This elevation only has a 2m side setback and the setback of 31 Stanley Street

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is only 900mm. Meaning there is only 3m between the proposed development and 31 Stanley Street without the implementation of adequate visual privacy mitigation measures.



- **Figure 36:** Eastern Side Elevation demonstrating the height of the fence in relation to the windows/doors (Source: applicant)



- **Figure 37:** Existing interface between development site and 31 Stanley Street (Source: Applicant)

The levels above contain obscured windows to a height of at least 1.6m above the FFL or they have privacy screens. The privacy screens are full height and the planter boxes are 700mm above the FFL.

The spacing/specifications (gaps and angles) of the privacy screens have not been provided for Council assessment.

Along the southern (rear) elevation, the bedrooms contain full height privacy screens. The balconies contain privacy screens and planter boxes to manage overlooking. However, the potential sight lines from the rear balconies into the Communal Open Space of 42 Avoca Street has not been demonstrated via plan documentation.

Accordingly, the visual privacy impacts have not been addressed via the design of the proposal or through the provision of adequate information to enable the consideration of potential impacts.

Insufficient amenity



The entrance to the lift is 900mm and it is unclear how occupants are going to suitably store items in the lowest basement level storage area. Furthermore, the location of the bicycle parking is unsuitable, noting that the bicycles would then need to be walked down the long narrow pedestrian passage.

The affordable unit of the ground floor has a constrained terraced private open space outcome. The proposed windows and interface with the public domain and neighbouring properties is not suitably resolved.

The pedestrian entry is long and narrow. The entrance into the building is into a dark, narrow lobby, which contains tight corners and no natural ventilation. Each of these matters is further reaffirmed as issues as a part of the Design Excellence Panel advice.

### Proposed landscaping concerns

Council's Landscape Officer raised the following concerns with the subject proposal:

- The *Ficus benjamina* (Weeping Fig) tree is not supported.
- The trees in the rear garden should be relocated to cover the width of the rear garden.
- Dimensions/depths/volumes & structural details should be provided for all planters in the interests of clarity.
- All planters on Levels 1-3 will be covered by the floors above, and not be open to natural rainfall, so an irrigation system will likely need to be detailed to confirm their survival and success.

The proposed landscaping treatment is not supported by Council's technical officer for the abovementioned reasons.

### Unpaid fees on the Planning Portal and concurrence

The following correspondence was received from the NSW Planning Portal on 23 November 2025, providing Council with the power to refuse the processing of an application, as per Part 15, Division 1 Clause 256 of the Environmental Planning and Assessment Regulation. The below reason and the absence of WaterNSW concurrence have formed part of the reasons for refusal.

From: NSW Planning <planning\_apps@planning.nsw.gov.au>  
 Sent: Sunday, 23 November 2025 12:00 AM  
 To: jwilson@gracoconsulting.com.au  
 Cc: Joseph Edmonds <Joseph.Edmonds@randwick.nsw.gov.au>  
 Subject: Action required: NSW Government concurrence and referral request CNR-87753(RANDWICK CITY COUNCIL)



Dear Wilson

Due to non-payment of the fee, your request for NSW Government agency consideration of an application DA/1052/2025 at 29 STANLEY STREET RANDWICK 2031 has not progressed. Council can refuse to process an application as per Part 15, Division 1 Clause 256 of the Environmental Planning and Assessment Regulation, if fees are not paid.

The request, reference number CNR-87753, was submitted through the [NSW Planning Portal](#) NSW Planning Portal.

Please log into the [Planning Portal](#), to check the fee estimate and make payment. The application cannot be considered by the relevant agency until the fee is paid in full.

If you have any questions in relation to the need for a concurrence and referral for this DA, please contact your council.

You can find general information about the online concurrence and referral system [here](#) or call our help line on 1300 305 695.

This email has been automatically sent through the NSW Planning Portal. Please do not reply to this message.

For more information or assistance, please visit the [NSW Planning Portal](#) and view our [Frequently Asked Questions](#) or [Quick Reference Guides](#). Alternatively, you can call our help line on 1300 305 695.

- **Figure 38:** Notification received from Planning Portal.

## 10. Conclusion

That the application for *Integrated Development for the demolition of existing structures, site preparations and tree removal to enable the construction of a 6-storey residential flat building comprising ten (10) apartments with an affordable housing component, rooftop communal terrace*

and three (3) levels of basement including nineteen (19) car parking spaces, bicycle and motorcycle parking, and associated ancillary, site and landscaping works (Variation to Number of Storeys - Housing SEPP) (Integrated Development – WaterNSW) (LMR) be refused for the following reasons:

1. Pursuant to Section 4.15 1)(a)(i) of Environmental Planning and Assessment Act 1979, the Application fails to comply with the following environmental planning instruments:
  - 3D-1 - Communal and public open space;
  - 3F-1 - Visual privacy;
  - 4G – Storage
2. Pursuant to Section 4.47 of the *Environmental Planning and Assessment Act 1979*, concurrence and the general terms of any approval have not been provided by Water NSW in relation to dewatering, pursuant to Section 90(2) of the *Water Management Act 2000*.
3. Pursuant to Part 15, Division 1 Clause 256 of the Environmental Planning and Assessment Regulation the applicant has not made payment of the required assessment fees in relation to the concurrence referral.
4. Pursuant to Section 176(2) of the *SEPP (Housing) 2021*, the proposed variation to the number of storeys is not supported because of the non-compliance with the building separation controls in the *Apartment Design Guide*.
5. The proposal has not demonstrated compatibility with the desired future character of the precinct in accordance with Section 20(3)(b) of the *SEPP (Housing) 2021*.
6. Pursuant to Section 26(1) of the *Environmental Planning and Assessment Regulation 2021*, the applicant must specify the name of the registered community housing provider who will manage the affordable housing component of the development and has not provided this documentation for assessment.
7. The Application does not satisfy the Randwick Local Environmental Plan 2012, 1.2 Aims of the Plan 2 (a) & (d) or the objectives of the R3 zone as the consent authority is not satisfied the housing needs of the community will be met in a manner satisfactory to their amenity and the amenity of the surrounding locality. The Application is further considered inconsistent with the desired future character of the locality.
8. The proposal has failed to demonstrate a satisfactory outcome in accordance with the requirements and objectives of Clause 5.10 Heritage Conservation of the Randwick LEP 2012.
9. The proposed development results in excessive change to natural ground levels including excavation exceeding 1m, resulting in non-compliance with the objectives of Clause 6.2 Earthworks of the RLEP 2012.
10. The proposal has failed to demonstrate a satisfactory outcome in accordance with the requirements and objectives of Clause 6.11 Design Excellence of the Randwick LEP 2012.
11. Pursuant to Section 4.15(1)(a)(iii) of Environmental Planning and Assessment Act 1979, the Application does not comply with the following provisions under Randwick Comprehensive Development Control Plan 2013:
  - Part B2: Heritage
  - Part B4: Landscaping and biodiversity
  - Part B8: Water Management
  - Part C2 of the RDCP 2013
    - Section 2.2.1: Landscaped Open Space
    - Sections 2.3.1 and 2.3.2: Communal and Private Open Space
    - Section 3.3: Building Depth
    - Section 3.4.2: Side Setback



- Section 4.1: Building Facade
  - Section 4.2: Roof Design
  - Sections 4.6 and 4.5: Internal circulation and pedestrian entry
  - Section 4.9: Colours and Materials
  - Section 4.12: Earthworks.
  - Section 5.1: Solar Access
  - Section 5.3: Visual Privacy
  - Section 5.6: Safety and Security
12. Pursuant to the provisions of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the likely impacts from the Application as detailed in this report are considered unacceptable.
  13. Pursuant to Section 4.15(1)(c) of Environmental Planning and Assessment Act 1979, the Subject Site is not considered suitable for the proposed development and has not demonstrated that it is capable of facilitating the extent of development sought.
  14. Pursuant to section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.
  15. The applicant has failed to provide the following information to enable a full assessment of the proposal:
    - a. Montage of demonstrating the proposed presentation of the development and integrate with the existing and future development in the streetscape
    - b. Urban context study
    - c. Front fence elevation and details
    - d. Parking ventilation details

## Appendix 1: Referrals

### 1. Design Excellence Panel Comments

#### PANEL COMMENTS & RECOMMENDATIONS

1. The Panel notes that the architectural documentation does not include sufficient urban design or contextual analysis. As a minimum, the applicant should demonstrate how the proposed five storey built form would integrate with future developments on adjoining properties and within the broader urban block. As the Panel noted for the 5-storey proposal, further analysis should consider the neighbouring development at a similar scale to that being proposed in the application.
2. The Panel is concerned with the applicant's approach of applying a uniform 2-metre DCP side setback across the building's full height. This strategy generates significant visual and acoustic privacy concerns and results in an unacceptable building-to-building relationship. A "straight extrusion" of a 6 storey form with only a 2-metre side setback would lead to approximately 4 metres separation between buildings on adjoining sites - well below the NSW ADG expectations and the NCC fire separation requirements. This approach would compromise amenity, privacy, and fire separation standards.
3. The Panel questions whether the site's limited width (approximately 13.7 metres) can realistically accommodate a 6 storey apartment form while complying with the fundamental NSW Apartment Design Guide criteria for building separation, solar access, and deep soil provision. The issues arising from the 5-storey proposal are further compounded with the addition of a 6<sup>th</sup> level. The extent of non-compliance area a major concern, particularly given the likely impact on both existing and future neighbouring developments.
4. The Panel expects the overshadowing impact on the existing southern courtyard at No. 42 Stanley Street to be tested at mid-winter. The applicant should provide detailed solar access modelling to confirm compliance with the ADG solar access and overshadowing criteria to Council's satisfaction.
5. The basement design appears problematic, with the structure occupying the full width of the site, leaving no space for piling or other required structural measures typical of multi-level basement construction. The additional yield and associated parking requirements are placing demands on the basement that the Panel believe are inappropriate for the site of this size. The proximity of excavation to adjoining properties raises potential structural and geotechnical risks for existing and potential future buildings that require further review by Council.
6. In summary, the Panel does not support the proposal in its current form and configuration. The fundamental concerns relate to building scale, separation and the overall site suitability. Further site amalgamation is required to support a project of this scale in this context, which might be unfeasible and therefore requiring a reduction in the scale of the project.
7. The following lower-order yet important issues should also be noted as part of this review:
8. Several internal amenity issues were identified in apartment layouts:
  - a. Apartment G1: Despite being a 79m<sup>2</sup> two-bedroom dwelling, it lacks a defined dining area and appears spatially constrained.
  - b. Apartments G2 and 101: The entry doors open directly toward kitchen aisles; dining areas are undersized, and bathroom doors open directly into circulation corridors.
  - c. Apartment 102: The kitchen design is inadequate for a three-bedroom family-oriented dwelling.
  - d. Apartment 401: The lift opens directly into the living area without a transition lobby, raising potential NCC fire separation and safety issues. A dining area is also absent.
9. The side facades offer primary address for a majority of habitable spaces. Rooms look out on side boundaries with heavily relying on privacy screens rather than genuine architectural configuration to manage overlooking. The Panel discussed the applicant has not incorporated effective design strategies such as the use of blinkered walls or angled orientation that

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preserve privacy. In the Panel's view screens should be only limited to secondary windows rather than relying for primary openings within habitable rooms.

10. The open fire stair located less than 3 metres of the side boundary raises potential NCC fire separation concerns and requires further technical review.
11. The architectural form and expression require further refinement.
12. The Applicant should ensure that all planters provide suitable soil depth/volume and width for the proposed plantings. This includes any upper level planters e.g. on Levels 1-3 where the planters currently shown are of inadequate width to be viable. The narrow planters currently shown along the east and west boundaries are considered too narrow to be viable given they are located on basement structure and will require raised planter walls.
13. Suitable plant species should be selected for use for the specific conditions and locations, with a strong preference given to locally endemic plant species. The *Ficus benjamina* trees currently shown on the landscape plans are not considered to be an appropriate species selection due to their dense canopy and aggressive root systems.
14. Overall, the proposal represents overdevelopment of the site. The design exhibits yield pressure, minimal separation distances, and a rigid 'straight building extrusion' that compromises amenity and context responsiveness.

## CONCLUSION

The Panel does not support the proposal in its current form. The design demonstrates excessive site yield expectations, insufficient building separation, and poor contextual integration within a constrained urban block. A fundamental reconsideration of the building massing, side setbacks, and basement configuration is required to achieve a compliant and contextually appropriate design outcome.

## 2. External referral comments:

### 2.1. Water NSW

As of 18 November 2025, the concurrence for integrated development to WaterNSW had not been paid.

On 17 November, after being followed up by Council a fee estimate was issued/reissued to the applicant, providing them until 22 November to pay.

It is noted that a similar DA was lodged on the site (DA/945/2025 – 1 level of basement and 1 level of above ground-built form less), which also required integrated approval. WaterNSW provided a RFI to the applicant, which was not responded to. Therefore, it is likely similar information would be requested for this proposal. The other DA has now been withdrawn. The authority has outlined that concurrence is not granted to the subject application and this forms a part of the reasons for refusal.

### 2.2. Sydney Water



27 October 2025

Our reference: N/A

**Joseph Edmonds**  
Randwick City Council  
[joseph.edmonds@randwick.nsw.gov.au](mailto:joseph.edmonds@randwick.nsw.gov.au)

**RE: Development Application DA/1052/2025 at 29 Stanley Street, Randwick**

Thank you for notifying Sydney Water of DA/1052/2025 at 29 Stanley Street, Randwick, which proposes the demolition of existing structures and construction of a six-storey residential flat building containing ten residential units, with three levels of basement parking. Sydney Water has reviewed the application based on the information supplied and provides the following Sydney Water requirements to assist in understanding the servicing needs of the proposed development.

**Water and Wastewater Servicing**

- Our preliminary assessment indicates that water and wastewater servicing should be available for the proposed development.
- Amplifications, adjustments, deviations and/or minor extensions may be required.
- Detailed requirements will be provided at the Section 73 application stage.

**Next steps**

- Should Council decide to progress with the subject development application, Sydney Water would require the following conditions be included in the development consent.
  - Section 73 Compliance Certificate
  - Building Plan Approval
 Further details of the conditions can be found in Attachment 1.
- Council is advised to forward the enclosed Sydney Water Development Application Information Sheet (for proponent) to assist the proponent in progressing their development. This Info Sheet contains details on how to make further applications to Sydney Water and provides more information on Infrastructure Contributions.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application. More information about the Section 73 application process is available on our web page in the [Land Development Manual](#).

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

Council can read further advice on requirements for this proposal in Attachment 1. Should Council require further information, please contact Fiona Feng from the Growth Analytics Team at [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au).

Yours sincerely,

**Growth Analytics Team**

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

**Enclosed:**

- Sydney Water Development Application Information Sheet (for proponent)

**Attachment 1 – Recommended Development Conditions**

Prior to the issue of an Occupation/Subdivision Certificate:

**Section 73 Compliance Certificate**

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

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

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

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

**Building Plan Approval (including Tree Planting Guidelines)**

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

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

**Tree Planting**

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

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

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

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



**2.3. AUSGrid**



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TELEPHONE: 13 13 65  
EMAIL: [development@ausgrid.com.au](mailto:development@ausgrid.com.au)



24-28 Campbell St  
Sydney NSW 2000  
All mail to  
GPO Box 4009  
Sydney NSW 2001  
T +61 2 131 525  
[ausgrid.com.au](http://ausgrid.com.au)

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

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

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

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

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

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

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

Regards,  
Ausgrid Development Team

### 3. Internal referral comments:

#### 3.1. Heritage planner

- *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. RDCP 2023 states that the scale of new buildings must be compatible with the streetscape.*
- *There are concerns that the scale and bulk of the proposal is inconsistent with RLEP and RDCP guidelines including*
  - *the two-three storey scale of adjoining development within the heritage conservation area to the west, and with the two and three storey scale of development to the east*
  - *the six-storey development will have a significant visual impact on the views to and from SHR item Emanuel School, setting and streetscape character*
- *The proposal at its current scheme is not supported from a heritage perspective, further information i.e. photomontages are required to be submitted to Council for review to ensure that the development does not have any significant adverse impact on the SHR item, setting, and streetscape character.*

#### 3.2. Development Engineer

*The depth of excavation and construction of basement walls could dam the flow of seepage water across the site. The Geotech report indicates a likely north to south flow of groundwater and hence the proposed basement levels will block this flow. A solution to this matter has not been considered by the applicant.*

*Given the significant depth of excavation extending up to common boundary the development application should have included an indicative structural / construction report.*

*NSW Office of Water comments have not been received.*

#### 3.3. Landscape Officer

The inspection of 23 February 2021 revealed a variety of specimens on the public verge across the width of this site, comprising firstly, in line with the western site boundary, a mature, 8m tall *Persea amerianna* (Avocado, T5), of good health and condition, which while unlikely to have been planted by Council, is still protected by the DCP due to its location on public property.

While the existing layback and crossing are located hard up against the eastern site boundary, the plans show that the new access will be shifted slightly to the west, but as a setback of around 4.5m will still be maintained from its trunk, this will allow its retention as an existing landscape element, which will assist with integration and presentation of this development to the streetscape, with relevant conditions and a bond provided to ensure this.

To its east, and just west of the existing driveway, is a small, 4m tall *Agonis flexuosa* (Willow Myrtle, T4), which can be removed, wholly at the applicant's cost, given its direct conflict with the new formalised crossing and basement entry ramp in this same location as shown, and while the other two larger, 8m x 6m Willow Myrtles (T1-2) past the eastern site boundary, in front of the adjoining site at no.31 will not be directly affected by these same external works, given that the new crossing will be maintained at a similar distance as what was described for T5 above, protection conditions have still been imposed in recognition of the need to protect them against secondary impacts, such as damage by trucks during deliveries and similar, as their crowns do overhang the footpath, road and partially in front of the subject site, and will ensure that the streetscape is maintained into the future.

The various shrubs throughout the front setback of the subject site are all insignificant, and as they are also in direct conflict with all aspects of this development, can be removed and replaced with the new treatment as shown, including the *Cotoneaster* (T8, weed), behind the front fence, the *Trachycarpus fortunei* (Chinese Windmill Palm, T6), beyond the northwest corner of the existing building, the *Ceratopetalum gummiferum* (NSW Xmas Bush, T7) to its south, closer to the dwelling, and the *Celtis occidentalis* (Nettle, T3, weed) right against the eastern boundary/paved driveway.

Similarly, while there are several established trees throughout the rear setback, which would even assist with screening and privacy between this site and adjoining properties, the inspection confirmed that almost all are already exempt from the provisions of Council's DCP, due either to being within 2m of the existing dwelling, and/or, being undesirable, invasive environmental weed species, meaning that they could be removed at anytime, without consent, irrespective of this development, with Council actively seeking to eliminate such weed sources to prevent them from invading sensitive areas such as native bushland.

They include two *Ligustrum lucidum* (Privets, T10) directly off the back of the existing house, then to their southwest, along the western site boundary, an 8m tall *Cocos Palm* (T12), another *Nettle Tree* (T13), then a *Morus nigra* (Mulberry, T14) directly adjacent the northwest corner of the free-standing brick shed that occupies the rear boundary, which are all problematic weeds, so can be removed.

While there is a single 10m tall *Mangifera indica* (Mango, T11) on the western boundary, at the northern end of the group described above, it appeared in poor health and condition, and as it is a common, exotic species, a re-design to allow its retention is not warranted.

The self-seeded *Robinia's* right in the southeast site corner, against the brick shed, are also an undesirable species given their ability to send up 'suckers' from their base, and invade adjoining sites, and also have sharp spines along the length of their branches, so their removal is supported as well.

The Landscape scheme proposes the use of a mixture of decorative native and exotic species, including within a raised planter that will occupy the entire front setback, between the pedestrian and vehicle entries, along with tall screen planting (Bamboo) along parts of both side setbacks, with native Lilly Pilly screening shrubs and evergreen feature trees to occupy the future common open space, across the rear boundary, with conditions requiring its implementation as part of any approval.

### 3.4. Environmental Health Officer

#### Comments:

Issues of environmental health concern relating to this development, as also mentioned within the SEE prepared for the site include:

#### Groundwater and Dewatering

- The geotechnical report indicates groundwater will be encountered during excavation for the three basement levels.
- Requires referral to Water NSW under the Water Management Act 2000 for dewatering approval (Integrated Development).
- Local Approval for dewatering will also have to be lodged with Council.

#### Excavation and Earthworks

- Dust generation affecting local air quality.
- Noise and vibration during excavation impacting nearby sensitive receptors (e.g., Emanuel School).

#### Noise and Vibration

- Demolition, excavation, and construction activities.
  - Short-term noise pollution affecting nearby residences and Emanuel School.
  - Vibration risk to adjacent structures.

A Construction Management Plan is recommended.

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



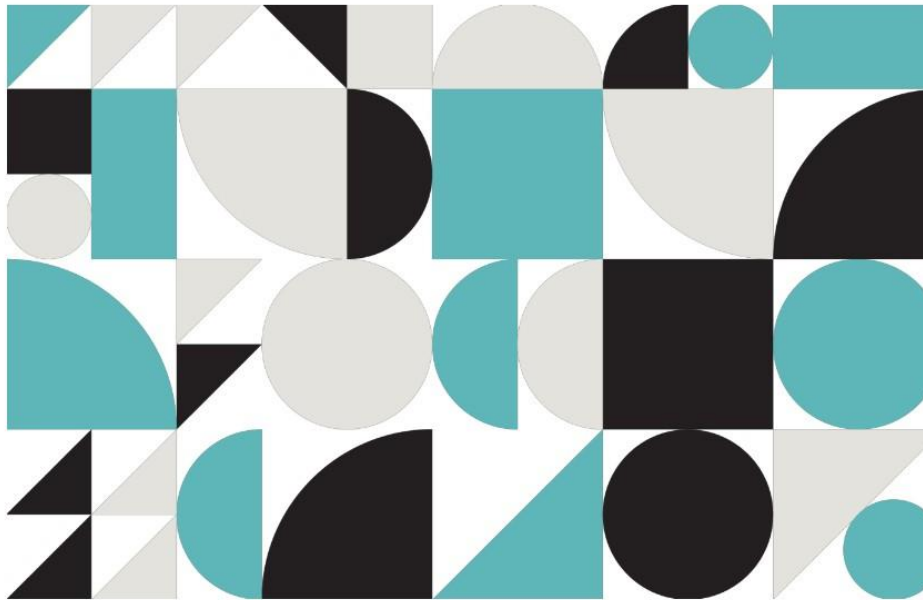
Clause 4.6 Variation Request – Clause 176(2) maximum number of storeys control

D79/25

### Clause 4.6 Variation Request Statement

Number of Storeys Control (Clause 176(2) of Housing SEPP)

29 Stanley Street, Randwick



Prepared by Paro Consulting

September 2025



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**Document status**

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Clause 4.6 Variation Request – Clause 176(2) maximum number of storeys control

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Clause 4.6 Variation Request – Clause 176(2) maximum number of storeys control

## 1. Introduction

This Clause 4.6 variation request statement has been prepared in relation to the development standard for number of storeys contained within Chapter 6, Part 4, Division 1, Clause 176(2) of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP).

Clause 4.6 of the Randwick Local Environmental Plan 2012 (Randwick LEP 2012) enables a consent authority to grant consent for a development even though the development contravenes a development standard of the LEP or another environmental planning instrument, such as in this case, the Housing SEPP.

This variation request is to accompany a development application (DA) for 29 Stanley Street, Randwick (the site) seeking approval for demolition, land preparation and the construction of a six (6) storey residential flat building, containing 10 residential units inclusive of infill affordable rental housing with a communal rooftop terrace, an additional three (3) levels of basement parking, and associated landscape works (the proposal).

The application has been lodged pursuant to the provisions of Chapters 2 Affordable housing (AH) and Chapter 6 Low and Mid Rise Housing (LMR) of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

Clause 176(2) stipulates that a maximum four (4) storey control applies to development that is for the purposes of a residential flat building on land located in the low and midrise housing outer area, as identified in Chapter 6 of the Housing SEPP. In the context of the site, the land is located within the 'outer area' of the low and mid rise housing area and the proposal is for the purpose of a residential flat building with a total of six (6) storeys over three (3) basement levels. This represents a two (2) storey variation, or 50% variation to the number of storey control when considered against Clause 176(2). The basement levels are excluded from storey calculation under Clause 176(3).

This written variation request has been prepared pursuant to Clause 4.6 of the Randwick Local Environmental Plan 2012 (Randwick LEP 2012) and forms a written request that justifies the contravention of the storey control development standard based upon specific circumstances of this proposal. It is submitted that permitting the proposed variation to Clause 176(2) of the Housing SEPP will allow for improved planning outcomes at the site.

This request has been prepared in accordance with Clause 35B of the *Environmental Planning and Assessment Regulation 2021* (the Regulation) which requires that a DA involving contravention of development standard must be accompanied by a document that sets out the grounds that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

This request has been prepared having regard to the Department of Planning and Environment's Guide to Varying Development Standards (November 2023) and various relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal (Court).

This request is structured to explicitly address the matters required to be addressed by the applicant under Clause 4.6(3)(a) and (b) for which the consent authority must be satisfied has been demonstrated according to Preston CJ in *Wehbe V Pittwater Council (2007) NSW LEC 827* ('Wehbe').

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Clause 4.6 Variation Request – Clause 176(2) maximum number of storeys control

## 2. Relevant planning instrument, development standard and proposed variations

### 2.1 Environmental Planning Instrument to be varied

The Environmental Planning Instrument (EPI) to be varied is State Environmental Planning Policy (Housing) 2021 (Housing SEPP). Chapter 6 (Low and mid rise housing) of the Housing SEPP applies to the site. More specifically under Section 174 of the SEPP the site is located within a Low and Mid Rise Housing Area-Outer Area and an LGA where this chapter is applicable. Following the 2023 planning reforms, Clause 4.6 of the relevant Local Environmental Plan (LEP) - in this case, the Randwick LEP 2012 - must be used to vary development standards within Environmental Planning Instruments (EPIs), including any relevant SEPPs. Which in this case is the Housing SEPP. The request is seeking to vary the maximum numeric number of storey as it applies to the site and proposal.

### 2.2 Development standard to be varied

The standard that is proposed to be varied is the maximum number of storeys development standard for the construction of a residential flat building in the 'low and mid rise outer area' as set out in Clause 176(2) of the Housing SEPP.

Clause 176(2) of the Housing SEPP states:

***"176 Development standards—low and mid rise housing outer area***

*(1) This section applies to land in a low and mid rise housing outer area in Zone R3 Medium Density Residential or R4 High Density Residential.*

***(2) Development consent must not be granted for development for the following purposes if a resulting building will have a building height of up to 17.5m unless the consent authority is satisfied that the building will have 4 storeys or fewer—***

***(a) residential flat buildings,***

***(b) buildings containing shop top housing.***

*(3) In this section, a storey does not include a basement within the meaning of the standard instrument."*

Clause 176(2) of the Housing SEPP stipulates that a maximum four (4) storey control applies to development that is for the purposes of a residential flat building on land located in the low and midrise housing outer area, as identified in Chapter 6 of the Housing SEPP. In the context of the site, the land is located within the 'outer area' of the low and mid rise housing area and the proposal is for the purpose of a residential flat building with a total of six (6) storeys, above three (3) basement levels.

### 2.3 Extent of Variation

Clause 176(2) of the Housing SEPP stipulates a maximum of four (4) storeys applies to development that is for the purposes of a residential flat building on land located in the low and midrise housing outer area, as identified in Chapter 6 of the Housing SEPP. In the context of the site, the land is located within the 'outer area' of the low and mid rise housing area and the proposal is for the purpose of a residential flat building with a total of six (6) storeys.

This represents a two (2) storey variation, or 50% variation to the number of storeys control when considered against Clause 176(2) of the Housing SEPP.

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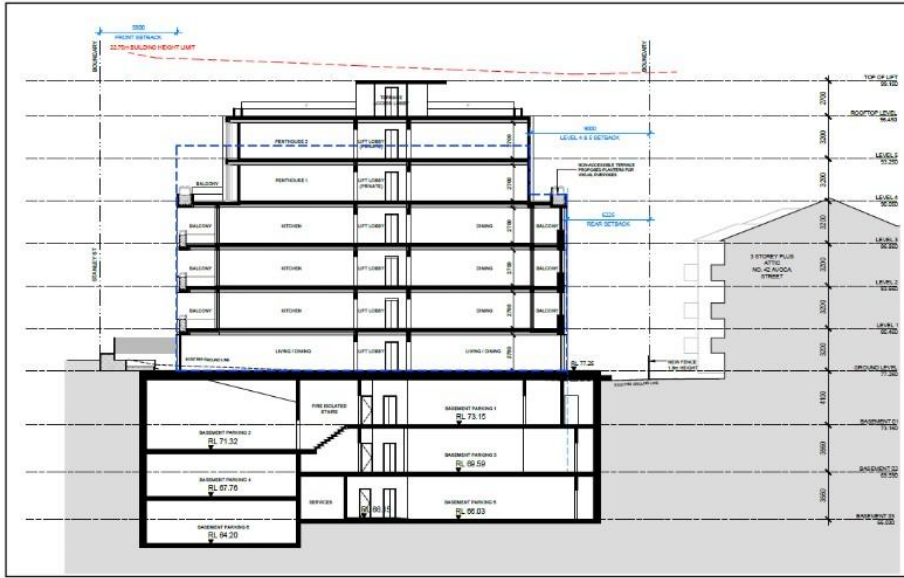


Figure 1: Section of the proposed development indicating the number of storeys

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Clause 4.6 Variation Request – Clause 176(2) maximum number of storeys control

### 3. Objectives and Provisions of Clause 4.6

The objectives and provisions of Clause 4.6 of the Randwick LEP 2012, are as follows:

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

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

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

(a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

(b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

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

(4) *The consent authority must keep a record of its assessment carried out under subclause (3).*

(5) *(Repealed)*

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

(a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

(b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

*Note— When this Plan was made it did not include all of these zones.*

(7) *(Repealed)*

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

(a) *a development standard for complying development,*

(b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*





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- (c) clause 5.4,
- (caa) clause 5.5,
- (ca) clause 6.16(3)(b).

It is noted that Clause 176 of the Housing SEPP is not “expressly excluded” from the operation of Clause 4.6 in the Randwick LEP 2012.

#### 4. Key questions

##### **Is the Planning Control a Development Standard?**

The standard to be varied is a Development Standard to which Clause 4.6 applies.

Clause 176(2) of the Housing SEPP is contained within a clause which is titled ‘Development standards—low and mid rise housing inner area’ and is a numeric development standard capable of being varied under clause 4.6 of the LEP.

The standard instrument defines a ‘development standard’ as:

**“development standards** means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are **specified or standards are fixed in respect of any aspect of that development**, including, but without limiting the generality of the foregoing, requirements or standards in respect of—

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,**
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and

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*(o) such other matters as may be prescribed.”*

Based on the above definition, and with previous decisions of the Land & Environment Court in relation to matters which constitute development standards it is considered that the wording of the maximum number of storeys control for residential flat buildings in the low and mid rise housing outer area in Clause 176(2) of the Housing SEPP constitutes a “development standard” as it is described as a numeric measure of building height, bulk and scale.

***Is the Development Standard Excluded from the Operation of Clause 4.6?***

The development standard is not excluded from the operation of Clause 4.6 as it is not listed within clause 4.6(6) or clause 4.6(8) of Randwick LEP 2012. It is also noted that Clause 176(2) of the Housing SEPP is not “expressly excluded” from the operation of Clause 4.6 in the Randwick LEP 2012. It is also noted that Clause 176 does not contain a provision which specifically excludes the application of Clause 4.6.

On this basis it is considered that Clause 176 is a development standard for which Clause 4.6 applies.

**4.1 Unreasonable and Unnecessary (Clause 4.6(3)(a))**

In this Section, we demonstrate why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a) of Randwick LEP 2012.

Clause 4.6(3)(a) of the Randwick LEP 2012, requires the consent authority to be satisfied that the applicant’s written request has adequately addressed clause 4.6(3)(b), by demonstrating that:

*“compliance with the development standard is unreasonable or unnecessary in the circumstances”*

In *Wehbe V Pittwater Council (2007)* NSW LEC 827 (‘Wehbe’) Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

*“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”*

The judgement goes on to state that:

*“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”*

In *Wehbe*, Preston CJ identified five ways in which it could be shown that application of a development standard was unreasonable or unnecessary. However, His Honour said that these five ways are not exhaustive; they are merely the most commonly invoked ways. Further, an applicant does not need to establish all of the ways. The five methods outlined in *Wehbe* are as follows (with our emphasis placed on the **First Method** and **Third Method** for the purposes of this Clause 4.6 variation statement):

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Method).**
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Method).*

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**3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Method).**

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Method).

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Method). Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary is the First Method”.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ makes reference to Wehbe and states:

“...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

**Test 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard.**

The first test of Wehbe requires demonstration that the objectives of a development standard can be achieved notwithstanding non-compliance with that particular standard. Notwithstanding variation to the storey control in the Housing SEPP, the objective and aims of the standard are achieved as outlined below.

The objectives and aims Division 1 of Chapter 6 of the Housing SEPP for Low and Mid Rise Housing are provided below, with a response as to how these have been met despite the variation to number of storey control.

Section 162 Aim of chapter in Part 6 of the Housing SEPP for Low and Mid Rise housing states:

*“The aim of this chapter is to encourage the development of low and mid rise housing in areas that are well located with regard to goods, services and public transport.”*

There are no objectives relating specifically to the maximum number of storeys standard, however, any underlying objective, in this case the principles of the Housing SEPP policy, would be considered relevant in terms of enabling low and mid rise housing development. The principles of the policy stipulated in clause 3 are:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,
- (c) ensuring new housing development provides residents with a reasonable level of amenity,
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- (e) minimising adverse climate and environmental impacts of new housing development,
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,

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*(h) mitigating the loss of existing affordable rental housing.*

The proposed residential flat building development is considered to be consistent with these principles.

The proposed residential flat building will provide for a greater number of housing options and housing diversity in a growing area that is well located with regards to goods, services and public transport, that will meet the needs of households in need of housing. It also provides high amenity for future residents in compliance with Apartment Design Guide (ADG) and Chapter 4 Design of Residential Apartment Development of the Housing SEPP. Furthermore, no existing affordable housing is being reduced, and the proposal does not result in any adverse climate or environmental impacts.

Importantly, while the proposal exceeds the maximum number of storeys control. The built form respects the intended massing outcome and achieves the visual and environmental objectives the storey limit is intended to support.

Importantly, while the proposal exceeds the maximum number of storeys control, it complies with the 22.75m height limit under Clause 16(3) of the Housing SEPP. The built form respects the intended massing outcome and achieves the visual and environmental objectives the storey limit is intended to support.

For the above reasons, I am of the view that the variation requested, and the resultant development is consistent with the objectives of the development standard, and an appropriate degree of flexibility is warranted. Consequently, I conclude that strict compliance with the development standard is unreasonable and unnecessary.

In accordance with the decision in *Wehbe*, compliance with a development standard is demonstrated to be unreasonable or unnecessary in this one way alone. On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

Notwithstanding the above, compliance with a development standard is also demonstrated to be unreasonable or unnecessary in another way being *Test 3* of *Wehbe*, outlined below:

***Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable***

Strict compliance with the numerical maximum number of storeys control would undermine the underlying objective and purpose of the development standard in the following ways:

- The 22.75m height control is capable of accommodating more than four storeys. Requiring strict compliance with a 4-storey maximum storey control would result in underutilisation of the permissible built form envelope.
- The proposed built form respects the intended massing outcome of the control in that it complies with the 22.75m height limit under Clause 16(3) of the Housing SEPP.
- Requiring compliance would constrain the site-responsive and well-designed proposal that meet height, bulk, and amenity objectives regardless, without yielding any public benefit.

The consequence is that requiring strict compliance would thwart the underlying objectives and purpose of achieving appropriate built form, residential amenity, and housing supply aligned with strategic planning objectives.

#### Summary

In accordance with the decision in *Wehbe*, compliance with a development standard is demonstrated to be unreasonable or unnecessary in two ways (Test 1 and Test 3). On this basis, the requirements of Clause 4.6(3)(a) are satisfied. Notably, under Clause 4.6(3)(b) a consent authority must now be satisfied that there are sufficient planning grounds for the contravention of a development standard. Clause 4.6(3)(b) is addressed in the Section below.





Clause 4.6 Variation Request – Clause 176(2) maximum number of storeys control

## 4.2 Sufficient Environmental Planning Grounds (Clause 4.6(3)(b))

In this Section, we demonstrate there are sufficient environmental planning grounds to justify contravening the number of storey development standard as required by clause 4.6(3)(b) of the LEP. In *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 2018*, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard.

Clause 4.6(3)(b) of the Randwick LEP 2012, requires the consent authority to be satisfied that the applicant's written request has adequately addressed clause 4.6(3)(b), by demonstrating that:

*"there are sufficient environmental planning grounds to justify contravening the development standard".*

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. Specifically, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (Initial Action) (paragraph 24) states:

*"The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15].*

*Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31]."*

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as summarised in Initial Action.

On the above basis, the following environmental planning grounds are submitted to justify contravening the maximum number of storeys development standard:

### 1. Provision of Additional Housing Density

- a) In accordance with the aim of Chapter 5 and 6 of the Housing SEPP, the proposal seeks to maximise residential density on a well-located site through the delivery of a high-quality apartment development. The design responds to the intent of the SEPP by promoting efficient land use, increased housing supply, and diverse dwelling types in an accessible urban setting.
- b) The proposed built form respects the intended massing outcome of the control in that it complies with the 22.75m height limit under Clause 16(3) of the Housing SEPP.
- c) Strict compliance with the number of storey standard would necessitate either the removal of apartments and/or high-quality communal open space, or the redistribution of floor space, resulting in smaller, lower-quality apartments on

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Clause 4.6 Variation Request – Clause 176(2) maximum number of storeys control

lower levels. Both outcomes would be contrary to the Aim of Chapter 6, which seek to encourage the development of low and mid rise housing in areas that are well located with regard to goods, services and public transport.

**2. Compatibility with Desired Future Character**

- a) The proposed development is consistent with the precincts' medium-density character and emerging higher density forms under the Housing SEPP framework.
- b) The proposed variation can also be considered compatible with other forms of development in the visual catchment which assists in being compatible with the desired future character.

**3. The non-compliance will have no material impacts on surrounding development**

- a) It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:
  - The design supports functional living environments for future residents, incorporating compliance with ADG and Housing SEPP controls for solar access, natural ventilation, privacy, and open space.
  - The storey count breach does not result in additional overshadowing, privacy or view loss impacts to adjoining development when considered against the backdrop of a compliant building envelope formulated by the 22.75m height limit
  - The proposal exceeds the maximum number of storeys control, however it complies with the 22.75m height limit under Clause 16(3) of the Housing SEPP.
  - The built form respects the intended massing outcome and achieves the visual and environmental objectives the storey limit is intended to support.

**4. Orderly and economic use of land**

- a) The social benefits of providing a development that improves the functionality and amenity of the residential flat development should be given weight in the consideration of the variation request.
- b) Given the nature of the previously approved building envelope at site, strict numerical compliance with the number of storey standard would sterilise part of the site's permissible height and undercut housing delivery in an area identified for increased capacity.

**5. The proposal meets aims and objectives of key planning documents**

- a) The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone (detailed in the accompanying Statement of Environmental Effects);
- b) The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
  - The proposal promotes the orderly and economic use and development of land through the proposed works provide additional residential accommodation that better meet the needs and significantly improve the living amenity opportunities of the residents (1.3(c));
  - The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development.

Insistence on compliance with the number of storey development standard will result in the proposal failing to meet the development of low and mid rise housing in areas that are well located with regard to goods, services and public transport and

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housing needs of the locality. The loss of Levels to achieve strict storey height compliance would result in a reduction in both the number and variety of dwellings, undermining the proposal's ability to meet these strategic goals. In this context, the variation are not only justified but necessary to deliver a high-quality, inclusive, and future-ready residential development.

It is noted that in Initial Action, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. *The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 69(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*
87. *The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome compared to a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

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Clause 4.6 Variation Request – Clause 176(2) maximum number of storeys control

## 5. Conclusion

Having regard to the provisions within both Section 176(2) of the Housing SEPP and 4.6 of the Randwick LEP 2012, we have formed the considered opinion that:

- The contextually responsive development is consistent with aims that relate to low and mid-rise housing with infill affordable rental housing contained within Chapter 2 and 5 of the Housing SEPP, and
- The application does not propose a variation to a Clause that is subject to the application of Clause 4.6(8) of the Randwick LEP 2012 or a development prohibition within another EPI, and
- There are sufficient environmental planning grounds to justify contravening the number of storey development standard, and
- That having regard to a) and b), compliance with the number of storey development standard is unreasonable or unnecessary in the circumstances of the case.

Pursuant to Clause 4.6(3) of the Randwick LEP 2012, the consent authority can therefore be satisfied that the applicant's written request has adequately demonstrated that:

*(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

*(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

In conclusion, we believe that in working with both the constraints of the site and the desired outcomes of the Housing SEPP, the proposed number of storey contravention present better planning, housing delivery and design outcomes when compared to alternative and more compliant options that were explored throughout the design process. Further, we have formed the considered opinion that there is no statutory or environmental planning impediment to the approval of a number of storey contravention in this instance. As this written request has satisfied statutory requirements pursuant to Clause 4.6 of the Randwick LEP 2012, the proposed variation to the number of storey development standard can be approved.



**Appendix 3: ADG Compliance Table**

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Clause	Design Criteria	Proposal	Compliance												
<b>Part 3: Siting the Development</b>															
<b>3D-1</b>	<b>Communal and Public Open Space</b>														
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	The site area is 569.1m <sup>2</sup> . Therefore, the required COS is 142.275m <sup>2</sup> .  A rooftop terrace has been provided.  The communal aspect of this is 65m <sup>2</sup> .	No.												
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Communal Open Space receives sufficient sunlight.	Yes.												
<b>3E-1</b>	<b>Deep Soil</b>														
	Deep soil zones are to meet the following requirements: Site Area:	39.84m <sup>2</sup> required and 66.4m <sup>2</sup> provided.	Yes.												
	<table border="1"> <thead> <tr> <th>Site Area</th> <th>Min. Dimension</th> <th>Deep Soil Zone (% site)</th> </tr> </thead> <tbody> <tr> <td>&lt; 650m<sup>2</sup></td> <td>-</td> <td>7%</td> </tr> <tr> <td>650–1,500m<sup>2</sup></td> <td>3m</td> <td>7%</td> </tr> <tr> <td>&gt;1,500m<sup>2</sup></td> <td>6m</td> <td>7%</td> </tr> </tbody> </table>	Site Area	Min. Dimension	Deep Soil Zone (% site)	< 650m <sup>2</sup>	-	7%	650–1,500m <sup>2</sup>	3m	7%	>1,500m <sup>2</sup>	6m	7%		
Site Area	Min. Dimension	Deep Soil Zone (% site)													
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650–1,500m <sup>2</sup>	3m	7%													
>1,500m <sup>2</sup>	6m	7%													
<b>3F-1</b>	<b>Visual Privacy</b>														
	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	2m side setback proposed all the way to the upper level.  Rear setback is 9m for levels 4 and 5.  6.25m rear setback below level 4.	No, see the key issues section.												
	<table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when</p>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m		
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Over 25m (9+ storeys)	12m	6m													

Clause	Design Criteria	Proposal	Compliance
	measuring privacy separation distances between neighbouring properties		
<b>3J-1</b>	<b>Bicycle and Car Parking</b>		
	For sites located within 800m of a light rail stop, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.  The car parking needs for a development must be provided off street	Car parking is considered under the affordable housing section of the Housing SEPP.	N/A.
<b>Part 4: Designing the Building</b>			
<b>4A</b>	<b>Solar and Daylight Access</b>		
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid Winter.	Applicant states compliance. However, it is unclear how the south facing units will receive adequate solar access, particularly the lower units.  The impact on solar access from the neighbouring properties redeveloping has also not been considered.	Unclear.
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	All apartments will receive sunlight between 9am and 3pm	Yes.
<b>4B</b>	<b>Natural Ventilation</b>		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	All apartments appear to be cross ventilated, provided that the side facing windows are operable.	Yes.
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Apartment depth does not exceed this.	Yes.
<b>4C</b>	<b>Ceiling Heights</b>		
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> <li>• Habitable Rooms – 2.7m</li> <li>• Non-habitable – 2.4m</li> <li>• Attic spaces – 1.8m at edge with min 30 degree ceiling slope</li> <li>• Mixed use areas – 3.3m for ground and first floor</li> </ul>	Habitable rooms are a minimum of 2.7m	Yes.



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Clause	Design Criteria	Proposal	Compliance															
	These minimums do not preclude higher ceilings if desired																	
<b>4D</b>	<b>Apartment Size and Layout</b>																	
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> <li>• Studio - 35m<sup>2</sup></li> <li>• 1 bedroom - 50m<sup>2</sup></li> <li>• 2 bedroom - 70m<sup>2</sup></li> <li>• 3 bedroom - 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m<sup>2</sup> each</p>	The 1-, 2-, and 3-bedroom apartments meet the size requirements.	Yes.															
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Habitable rooms have suitable windows.	Yes.															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Except for the kitchen, living and dining the rooms meet the requirements.	Yes.															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Open plan layouts meet this standard.	Yes.															
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)	Bedrooms meet this size requirement.	Yes.															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Bedrooms meet this size requirement.	Yes.															
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	Minimum width of 4m demonstrated on the plans.	Yes.															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	All units are wider than 4m.	Yes.															
<b>4E</b>	<b>Apartment Size and Layout</b>																	
	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="347 1733 849 1926"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling type	Minimum area	Minimum depth	Studio	4 m <sup>2</sup>	-	1 bedroom	8 m <sup>2</sup>	2m	2 bedroom	10 m <sup>2</sup>	2m	3+ bedroom	12 m <sup>2</sup>	2.4m	<p>2-beds are at least 10m<sup>2</sup> and 2m deep. 3-beds are at least 12m<sup>2</sup> and 2.4m deep.</p> <p>Penthouses are much larger.</p>	Yes.
Dwelling type	Minimum area	Minimum depth																
Studio	4 m <sup>2</sup>	-																
1 bedroom	8 m <sup>2</sup>	2m																
2 bedroom	10 m <sup>2</sup>	2m																
3+ bedroom	12 m <sup>2</sup>	2.4m																

Clause	Design Criteria	Proposal	Compliance
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m	Ground floor POS is terraced and lacks privacy.	Yes.
<b>4F</b>	<b>Common Circulation and Spaces</b>		
	The maximum number of apartments off a circulation core on a single level is eight	Only max of 2 units on each level.	N/A.
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	6 storey development.	N/A.
<b>4G</b>	<b>Storage</b>		
	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> <li>• Studio apartments - 4m<sup>3</sup></li> <li>• 1 bedroom apartments - 6m<sup>3</sup></li> <li>• 2 bedroom apartments - 8m<sup>3</sup></li> <li>• 3+ bedroom apartments - 10m<sup>3</sup></li> </ul> <p>At least 50% of the required storage is to be located within the apartment</p>	<p>G1 (2 bed) only has 3m<sup>3</sup></p> <p>G2 (3 bed) only has 4m<sup>3</sup></p> <p>202 has poorly located storage.</p> <p>Some of the units of measurement are wrong.</p> <p>There is significant basement storage, but less than half is provided in the units.</p>	No.

**Appendix 4: DCP Compliance Table**

**3.1 Section B6: Recycling and Waste Management**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>4.</b>	<b>On-Going Operation</b>		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.	Waste room is in the basement	Yes.
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.	No impacts on habitable rooms.	Yes.
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.	In the basement	Yes.
	(vii) Ensure the waste storage facilities are	Not considered to be	No.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).	highly accessible.	
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	The waste storage in each unit isn't shown.	Unclear.
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system and have lighting and water supply.	These details are not shown.	Unclear.

**3.2 Section B7: Transport, Traffic, Parking and Access**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>3. Parking &amp; Service Delivery Requirements</b>			
	Car parking requirements: <ul style="list-style-type: none"> <li>• 1 space per 2 studios</li> <li>• 1 space per 1-bedroom unit (over 40m<sup>2</sup>)</li> <li>• 1.2 spaces per 2-bedroom unit</li> <li>• 1.5 spaces per 3 or more bedroom unit</li> <li>• 1 visitor space per 4 dwellings</li> </ul>	The Housing SEPP rate is used.	N/A.
	Motor cycle requirements: 5% of car parking requirement	1 motorcycle space provided.	Yes.
<b>4. Bicycles</b>			
	Residents: <ul style="list-style-type: none"> <li>• 1 bike space per 2 units</li> </ul> Visitors: <ul style="list-style-type: none"> <li>• 1 per 10 units</li> </ul>	6 bicycle spaces provided but poorly located.	Numerically complies.

**3.3 Section C2: Medium Density Residential**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>2. Site Planning</b>			
<b>2.2 Landscaped open space and deep soil area</b>			
<b>2.2.1 Landscaped open space</b>			
	A minimum of 50% of the site area (284.55m <sup>2</sup> ) is to be landscaped open space.	Approximately 250m <sup>2</sup> provided.	No
<b>2.3 Private and communal open space</b>			
<b>2.3.1 Private open space</b>			

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p><b>For residential flat buildings:</b></p> <p>(vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling.</p> <p>(vii) Private open space for apartments has a minimum area of 8m<sup>2</sup> and a minimum dimension of 2m.</p>	<p>Unit 501 does not have internal access to the terrace.</p> <p>All other units do.</p>	<p>No.</p>
<b>2.3.2</b>	<b>Communal open space</b>		
	<p>Communal open space for residential flat buildings is to be:</p> <p>(a) Of a sufficient contiguous area, and not divided up for allocation to individual units.</p> <p>(b) Designed for passive surveillance.</p> <p>(c) Well oriented with a preferred northerly aspect to maximise solar access.</p> <p>(d) adequately landscaped for privacy screening and visual amenity.</p> <p>(e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.</p>	<p>One contiguous roof terrace. Doesn't meet the communal open space size requirement.</p> <p>Well orientated for solar access.</p> <p>Landscaping is insufficient.</p> <p>No shade structures provided.</p>	<p>No.</p>
<b>3.3</b>	<b>Building depth</b>		
	<p>For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m.</p> <p>Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.</p>	<p>The building depth is 29m.</p>	<p>No, see the key issues section.</p>
<b>3.4</b>	<b>Setbacks</b>		
<b>3.4.1</b>	<b>Front setback</b>		
	<p>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street.</p> <p>Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as</p>	<p>Front setback is 5.8m.</p> <p>This is consistent with the average of adjoining properties.</p> <p>Much of the frontage is taken up by the driveway and pedestrian entrance.</p> <p>The fire booster, water and gas meters are within the frontage.</p> <p>There is landscape planting, but Council's landscape officer is not satisfied.</p>	<p>No.</p>

D79/25

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.		
<b>3.4.2</b>	<b>Side setback</b>		
	<p><b>Residential flat building</b></p> <p>(i) Comply with the minimum side setback requirements stated below:                      - 12m ≤ site frontage width &lt; 14m: 2m</p> <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:                      - Create articulations to the building facades.                      - Reserve open space areas and provide opportunities for landscaping.                      - Provide building separation.                      - Improve visual amenity and outlook from the development and adjoining residences.                      - Provide visual and acoustic privacy for the development and the adjoining residences.                      - Ensure solar access and natural ventilation for the development and the adjoining residences.</p> <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	<p>There is a nil side setback of the basement levels.</p> <p>From the ground floor up, there is a side setback of 2m.</p> <p>The eastern façade has a slight articulation where the lift and services are located.</p> <p>Minimal meaningful landscaping provided.</p> <p>Insufficient building separation is provided, noting the limited setback of the adjoining properties and the potential future redevelopment of these properties.</p> <p>The development will not provide suitable visual amenity from the development site or for neighbouring properties.</p> <p>A fire protection statement has been provided.</p>	<p>No.</p>
<b>3.4.3</b>	<b>Rear setback</b>		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth (6.225m) or 5m, whichever is the greater.	6.225m provided.	Yes.
<b>4. Building Design</b>			
<b>4.1</b>	<b>Building façade</b>		
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are</p>	<p>The front wall alignment is parallel with the street.</p> <p>The facades are not sufficiently articulated to present a human scale.</p>	<p>No.</p>



DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>parallel with the street property boundary or the street layout.</p> <p>(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>	<p>The facades do not contribute to the proportions or the visual character of the street.</p> <p>The western façade has a blank wall for approx. 26m.</p>	
<b>4.2</b>	<b>Roof design</b>		
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> <li>- There are no direct sightlines to the habitable room windows</li> </ul>	<p>The flat roof facilitating the roof top communal open space and private terrace is different to the surrounding character.</p> <p>The services, lift overrun, and stairs are not contained in the built form or suitably screened.</p> <p>Because the proposal is so much higher than surrounding development, there will not be views into neighbouring properties to the east and west. However, there could be views into properties to the north and south, this hasn't been made clear.</p> <p>The impacts of future similar developments have not been investigated by the applicant.</p>	<p>No.</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>and private and communal open space of the adjoining residences.</p> <ul style="list-style-type: none"> <li>- The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences.</li> <li>- Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street.</li> <li>- Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building.</li> </ul> <p>(viii) The provision of landscape planting on the roof (that is, “green roof”) is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>		
<b>4.4</b>	<b>External wall height and ceiling height</b>		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	The wall height is 19m, but the site is not subject to a height limit of 9.5m.	No / N/A.
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	All habitable rooms are a minimum of 2.7m.	Yes.
<b>4.5</b>	<b>Pedestrian Entry</b>		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Separate entries provided.	Yes.
	(ii) Present new development to the street in the following manner: <ul style="list-style-type: none"> <li>- Locate building entries so that they relate to the pedestrian access network and desired lines.</li> <li>- Design the entry as a clearly identifiable element in the façade composition.</li> <li>- Integrate pedestrian access ramps into the overall building and landscape design.</li> <li>- For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible.</li> <li>- Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably</li> </ul>	<p>The entrance gate is identifiable, but the entrance to the building is down a long narrow passage.</p> <p>No direct entries for ground floor units are provided.</p> <p>Mailboxes at the front entry. Within a wall, but parallel to the street.</p> <p>No weather protection for building entry.</p>	No.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary).</p> <ul style="list-style-type: none"> <li>- Provide weather protection for building entries.</li> </ul> <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>		
<b>4.6</b>	<b>Internal circulation</b>		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> <li>- Providing natural lighting and ventilation where possible.</li> <li>- Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors.</li> <li>- Allowing adequate space for the movement of furniture.</li> <li>- Minimising corridor lengths to give short, clear sightlines.</li> <li>- Avoiding tight corners.</li> <li>- Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor.</li> </ul>	<p>The lobbies are undersized (approx. 5m<sup>2</sup>)</p> <p>No natural light or ventilation.</p> <p>Narrow widths. Insufficient space for movement of furniture.</p> <p>Corridor lengths are short.</p>	No.
<b>4.7</b>	<b>Apartment layout</b>		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> <li>- Providing corner, cross-over, cross-through and double-height maisonette / loft apartments.</li> <li>- Limiting the depth of single aspect apartments to a maximum of 6m.</li> <li>- Providing windows or skylights to kitchen, bathroom and laundry areas where possible.</li> </ul> <p>Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.</p>	<p>All apartments have a minimum of three aspects.</p> <p>Windows to all habitable rooms.</p>	Complies.
	<p>(ii) Design apartment layouts to accommodate flexible use of rooms</p>		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	and a variety of furniture arrangements.		
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Balconies and terraces for every apartment.  501 must go up common stairs to access their terrace.	Yes.
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	DEAP raised concern with this configuration.	No.
<b>4.9</b>	<b>Colours, materials and finishes</b>		
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> <li>- Changes of colours and surface texture</li> <li>- Inclusion of light weight materials to contrast with solid masonry surfaces</li> <li>- The use of natural stones is encouraged.</li> </ul> (v) Avoid the following materials or treatment: <ul style="list-style-type: none"> <li>- Reflective wall cladding, panels and tiles and roof sheeting</li> <li>- High reflective or mirror glass</li> <li>- Large expanses of glass or curtain wall that is not protected by sun shade devices</li> <li>- Large expanses of rendered masonry</li> <li>- Light colours or finishes where they may cause adverse glare or reflectivity impacts</li> </ul> (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.	No montages have been provided.  Not supported by Heritage Planner.	No.
<b>4.12</b>	<b>Earthworks Excavation and backfilling</b>		
	(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	Up to 14m of excavation is proposed.  Has not been suitably justified.	No, see key issues section.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	<p>Earthworks stretch to both side boundaries.</p>	
	<p><b>Retaining walls</b></p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	<p>The walls to the basement are not setback from the side boundaries.</p>	<p>No.</p>
<b>5. Amenity</b>			
<b>5.1 Solar access and overshadowing</b>			
<b>Solar access for proposed development</b>			
	<p>(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.</p>	<p>The southern facing balconies are not expected to receive solar access of at least 3 hours on 21 June.</p>	<p>No.</p>
	<p>(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.</p>	<p>Solar access (sun eye) diagrams show that &gt;70% of units will receive adequate solar access.</p>	<p>Yes.</p>
	<p>(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.</p>	<p>No single aspect apartments.</p>	<p>Yes.</p>
	<p>(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.</p>	<p>Solar access would be available from the communal roof top.</p>	
<b>Solar access for surrounding development</b>			



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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(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.	The solar diagrams appear to show compliance with these controls.	Yes.
<b>5.2</b>	<b>Natural ventilation and energy efficiency</b>		
	(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.	Habitable rooms contain windows.	Yes.
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Unclear what the sun shading devices are.	Unclear.
	(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.	Habitable rooms contain window openings (window schedule shows that these are operable).	Yes.
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	All habitable rooms will have ventilation.	Yes.
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	All units are cross ventilated.	Yes.
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	3 out of 10 are adjacent to openable windows or near a private door.	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	N/A	N/A.
<b>5.3</b>	<b>Visual privacy</b>		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences. (iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance. (iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy. (v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> <li>- Translucent glazing</li> <li>- Fixed timber or metal slats</li> <li>- Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings</li> <li>- Screen planting and planter boxes as a supplementary device for reinforcing privacy protection</li> </ul>	Balconies are orientated to the front and the rear.  The proposal has not sufficiently increased the separation distance.  The privacy screens will block light into the rooms. These are the only openings to these rooms.  Ground floor has not provided sufficient visual privacy.	No, see the key issues section.
<b>5.4</b>	<b>Acoustic privacy</b>		
	(i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> <li>- Double glazing</li> <li>- Operable screened balconies</li> <li>- Walls to courtyards</li> <li>- Sealing of entry doors</li> </ul>	Not raised as a concern by Environmental Health Officer and the proposed layout does not appear to be inconsistent with the use of neighbouring properties.	Yes.
<b>5.5</b>	<b>View sharing</b>		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings.	No significant view loss is anticipated from the proposal.	N/A.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain. (v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain. (vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.		
<b>5.6</b>	<b>Safety and security</b>		
	(i) Design buildings and spaces for safe and secure access to and within the development.	The entrance is down a long narrow passage and the lobby is small.	No.
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Lift access from the parking to the residences.	Yes.
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	G1 has inappropriate interfaces of windows.	No
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	Acceptable	Yes.
	(vi) Resident car parking areas must be equipped with security grilles or doors.	There is a garage door to the basement parking.	Yes.
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	The entrance is said to be an automatic door.	Yes.
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Unclear if there will be adequate lighting, there is no natural lighting.	Unclear.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	There are views over the public spaces.	Yes.
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	This would be conditioned.	Would be conditioned.
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	This would be conditioned.	Would be conditioned.
<b>6. Car parking and access</b>			
<b>6.1 Location</b>			
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	No secondary street or laneway available. Utilizes existing crossing.	Yes.
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	The driveway is long (17m). This does not limit the extent of impermeable surfaces.	No.
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	Not setback by 1m from side boundary. (approx. 500mm).	No.
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	No rear lane	N/A.
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	Car parking is in a basement. It is recessed behind the front of the dwelling. The driveway is positioned to the side.	Yes.
<b>6.2 Configuration</b>			

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	Cars will be able to enter and exit in a forward direction.	Yes.
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	Driveway width is 3.3m.	Yes.
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.	No natural ventilation.  Overall ventilation is unclear.  At the rear the basement is above the existing ground line.  There is a lift from the basement up to the residential lobbies.  The stairs exit to the exterior.  The ramp steeply slopes down, the door is located far away from the entrance.	No.
<b>7. Fencing and Ancillary Development</b>			
<b>7.1 Fencing</b>			
	(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: - Steel post and chain wire	Metal palisade fence.	Yes.



DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- Barbed wire or other dangerous materials</li> <li>(i) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</li> </ul>		
<b>7.2</b>	<b>Front Fencing</b>		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.	It appears that the fence is behind the hydrant boosters.	No / Unclear.
	(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.	Metal Pallisades fence to a height of 1.2m proposed.	Yes.
	(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.	Unclear.	Unclear.
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: <ul style="list-style-type: none"> <li>- Front fence for sites facing arterial roads.</li> <li>- Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade.</li> </ul> Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.	Not proposed or applicable.	N/A.
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.	Fence is not stepped. However, there is not a significant change in levels.	Yes.
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	The fence is metal palisades.	No.
	(vii) Gates must not open over public land.	Fence opens inwards.	Yes.
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	Fence isn't splayed, low fence utilized.	Yes.
<b>7.3</b>	<b>Side and Rear Fencing</b>		
	(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the	New 1.8m high boundary fences along the side and rear boundaries.	Yes.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>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>		
<b>7.7</b>	<b>Laundry facilities</b>		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	No clothes lines provided.	No.
	(ii) Provide internal laundry for each dwelling unit.	Each unit has a laundry	Yes.
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	No separate balconies or communal drying spaces.	No.
<b>7.8</b>	<b>Air conditioning units:</b>		
	<ul style="list-style-type: none"> <li>• Avoid installing within window frames. If installed in balconies, screen by suitable balustrades.</li> <li>• Air conditioning units must not be installed within window frames.</li> </ul>	Unclear where these will be located.	Unclear.

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

**File Reference:** DA/1052/2025

## Development Application Report No. D80/25

**Subject:** 1 Lingard Street, Randwick (DA/836/2025)

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### Executive Summary

<b>Proposal:</b>	Alterations and additions to existing mixed-use building comprising dwelling (residential unit) on the upper level, involving construction of an additional level on top of the dwelling with a roof terrace and swimming pool, replacement of existing windows and doors, render existing brick exterior, installation of roof over existing car parking area and reconfiguration of internal spaces within existing dwelling.
<b>Ward:</b>	North Ward
<b>Applicant:</b>	B Lance
<b>Owner:</b>	Mr G C Grut & Ms D P Grut
<b>Cost of works:</b>	\$2,357,142
<b>Reason for referral:</b>	The development contravenes the development standards for floor space ratio and height of building by more than 10%.

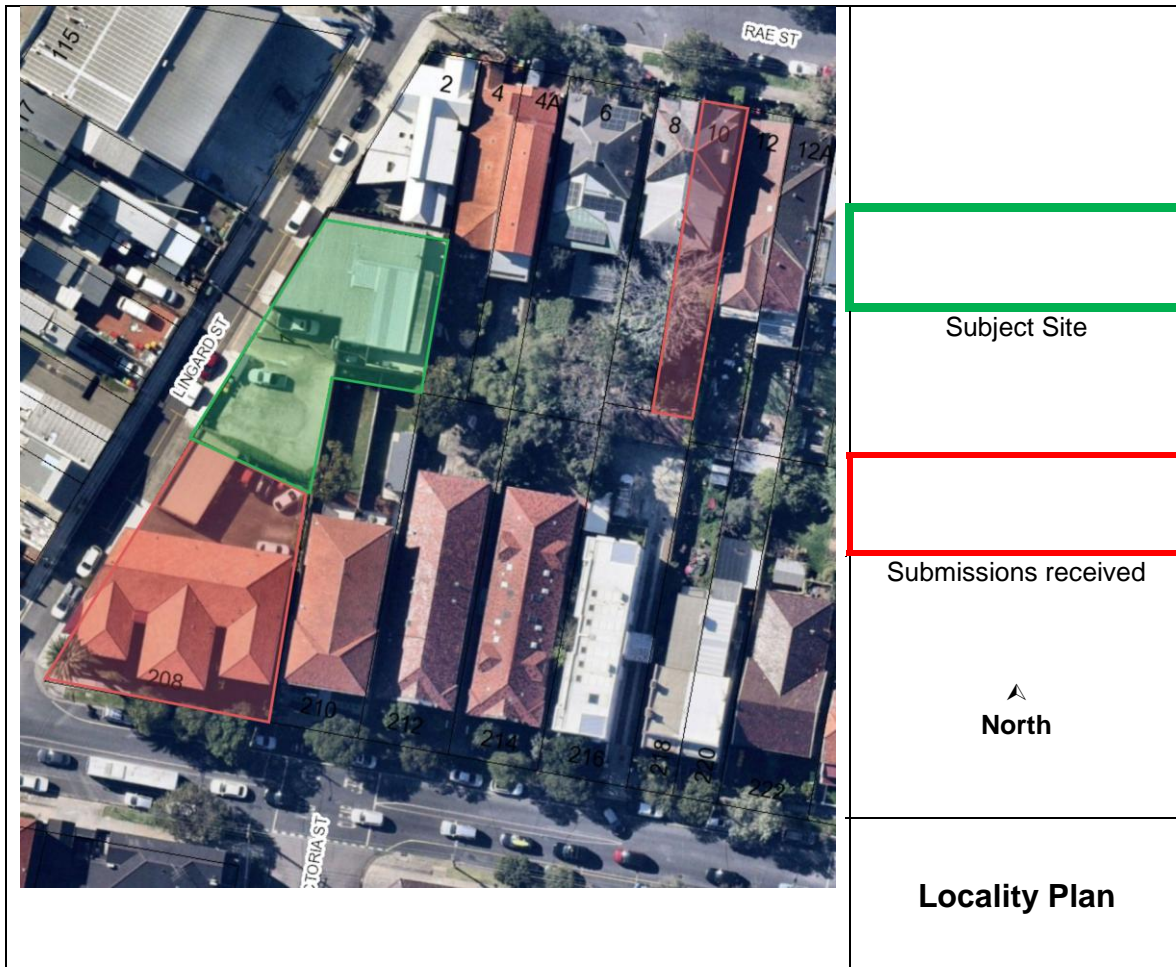
### Recommendation


- A. That the RLPP is satisfied that the applicant's written requests to vary the development standards relating to Height of Buildings and Floor Space Ratio in Clauses 4.3 and 4.4 of Randwick Local Environmental Plan 2012 have demonstrated that:
- i. Compliance with the relevant development standard is unnecessary and unreasonable in the circumstances of the case; and
  - ii. There are sufficient environmental planning grounds to justify the contravention of the relevant development standard.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 826/2025 for Alterations and additions to existing mixed-use building comprising dwelling (residential unit) on the upper level, involving construction of an additional level on top of the dwelling with a roof terrace and swimming pool, replacement of existing windows and doors, render existing brick exterior, installation of roof over existing car parking area and reconfiguration of internal spaces within existing dwelling, at No. 1 Lingard Street, Randwick, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  RLPP Dev Consent Conditions (general) - DA/836/2025 - 1 Lingard Street, RANDWICK NSW 2031 - DEV - B Lance

D80/25



Subject Site
Submissions received
 North
<b>Locality Plan</b>

**1. Executive summary**

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

- The development contravenes the development standard for floor space ratio (FSR) maximum of 0.9:1 and height of building (HOB) maximum of 12m by more than 10%.

The subject site benefits from existing use rights under Division 4.11 of the Environmental Planning and Assessment Act 1979. The existing building contains a vehicle body repair workshop and an upper-level caretaker’s residence (dwelling) approved under DA/194/1975 and has operated continuously since. The vehicle body repair shop is prohibited in the R3 Medium Density Residential zone under Randwick Local Environmental Plan 2012 (RLEP), but remains lawful due to its established existing use status.

The ground floor *vehicle body repair workshop* and first floor *dwelling* categorises the development as ‘mixed-use’ and not shop-top housing. *Vehicle body repair shop* is not commercial premises under the RLEP.

The Application mostly seeks to upgrade and extend the residential component of the lawful existing use development maintaining the ongoing operation of the established vehicle body repair workshop and includes:

- Construction of an additional level above the existing dwelling, incorporating a master bedroom, void space, roof terrace and swimming pool;
- Internal reconfiguration of the existing residence;
- Installation of a roof structure over the existing open car parking area to the south;
- Replacement of existing windows and doors;

- Relocated and replacement roller doors; and
- Rendering of the existing brick façade.

The applicant has submitted two Clause 4.6 written submissions seeking variations to the FSR and HOB development standards noting that these are required on the basis that the LEP development standards apply, noting they do not operate to derogate from the lawful continuation of the existing use.

The Clause 4.6 written submissions are considered to provide well founded arguments that satisfy the associated objectives of the standard, the objectives of the R3 zone and sufficient environmental planning grounds for supporting the variations. Most notably, the variations largely arise because a substantial part of the gross floor area and height takes in the basement level, which results in a calculated gross floor area and height of building that bears little relationship to the actual size and scale as viewed from the street. Whilst it is acknowledged that the basement to some extent has an external above ground presentation to the rear, this is largely a consequence of existing topographical site conditions, and the proposed upper-level addition has been skillfully designed with a recessed built form away from this boundary ensuring no adverse visual bulk or overshadowing to these adjoining properties.

The application was also referred to Council's Technical officers for comment including Development Engineering, Heritage, and Council's Design Excellence Advisory Panel for comment. Whilst no objections are raised by Development Engineering, there are several matters raised by the Design Excellence Advisory Panel for consideration. Notably those relating to design excellence matters such as landscaping, and overall functionality and aesthetic presentation.

The applicant submitted amended plans and amended sun view diagrams addressing the DEAP comments and relevant planning considerations, particularly in relation to the assessment of overshadowing impacts on the adjoining land and clarification of the nature of works to the southern elevation.

Three unique submissions by way of objection were received during the course of assessment. Height, bulk, privacy, and shadows were the main concerns raised. A detailed consideration of submissions is provided below, where each of the matters have been either addressed via the submission of amended information, plan revisions or the recommended consent conditions.

Overall, the proposed bulk and scale presents as a varying bulk and scale, with the elevation along Lingard Street presenting as a part two and part three storey building and the most pronounced form along the rear adjoining the side of No. 4 Rae Street having a part three to part four storey built form with the new upper level master bedroom sufficiently stepped back and recessed to ensure no adverse visual bulk or overshadowing to the neighbouring property.

The Application is recommended for approval subject to the relevant conditions of consent.

## **2. Site Description and Locality**

The subject site is known as 1 Lingard Street and is legally described as Lot 2 in DP 517166.

The subject site is an irregularly shaped allotment with a single frontage of 33.7 metres to Lingard Street and a total area of approximately 638m<sup>2</sup>. The land is zoned R3 – Medium Density Residential.

The site contains an existing three-storey mixed-use building, comprising:

- Basement: vehicle body repair workshop
- Ground floor: internal workshop space and an elevated open car parking area to the south
- First floor: long-standing caretaker's residence

The existing vehicle repair station operates under existing use rights, as it is a prohibited use in the R3 zone, while the caretaker's residence is a permissible residential use.

The site adjoins four residential properties:

- No. 2 Rae Street to the north



- No. 4 Rae Street to the east
- No. 208 Alison Road to the south
- No. 210 Alison Road to the southeast

Existing built forms on the site present varying heights along the boundaries, with nil or minimal setbacks at lower levels and recessed higher elements. Heights range from 3m along the southern boundary (open parking area) through to 6–8m along the northern and eastern boundaries, increasing to around 9–10m, where upper-level elements are stepped back.

The immediate locality is characterised by predominantly lower to medium-scale residential development, including single dwellings and small multi-unit housing forms generally up to three storeys. Adjoining lots contain driveways, parking areas and rear yards, providing a mix of ancillary open spaces and service areas adjacent to the site.

The opposite side of the Lingard Street serves the back of house functions of properties in a Commercial Centre E2 zone, which enables a maximum height of 12m and maximum FSR of 2:1.

Overall, the site sits within an established residential setting, but contains a non-conforming use that contributes to a bulkier built form than typically found in the R3 locality.



- **Figure 1** – 1 Lingard Street Randwick (source: Assessing Officer)



• **Figure 2** – 1 Lingard Street Randwick (source: Assessing Officer)



• **Figure 3** – 1 Lingard Street Randwick adjoining car park (source: Assessing Officer)



D80/25



• **Figure 4** – 1 Lingard Street Randwick (source: Assessing Officer)



• **Figure 5** – 1 Lingard Street Randwick (source: Assessing Officer)

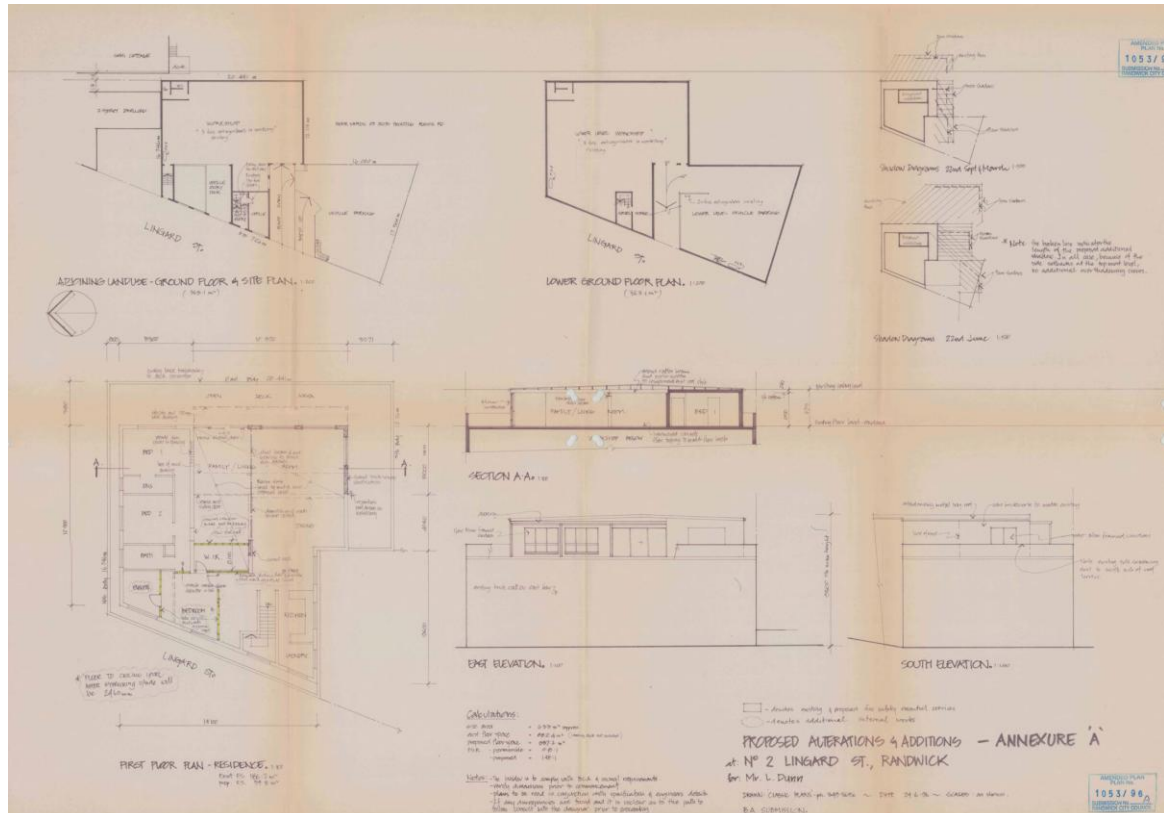
### 3. Relevant history

**DA/194/1975** was determined 5 February 1976 and approved reconstruction of an existing workshop building and new cartakers residence.

**DA/48/1980** was determined on 11 June 1980 and approved modification to the existing caretakers residence.

**DA/186/1987** was determined on 11 November 1987 and approved the continued use of the premises as a mechanical repair workshop.

**DA198/2004** was determined on 11 May 2004 for installation of a spray booth.



### 4. Application

The application seeks approval for alterations and additions to the existing mixed-use building at 1 Lingard Street, Randwick, comprising a *vehicle body repair workshop* at ground level and a *dwelling* above. The works primarily relate to the residential component and are intended to improve its amenity, functionality and presentation.

The application includes the following key elements:

#### Additions and Built Form Changes

- Construction of an additional upper level above the existing dwelling, containing a master bedroom, ensuite and study, with access to a private roof terrace.
- New swimming pool located on the roof terrace, integrated into the upper-level addition.
- Roof over the existing car parking area at ground level to improve weather protection and usability.

External Upgrades

- Replacement of existing windows and doors throughout the dwelling to modernise the building’s appearance and improve energy performance.
- Rendering of the existing brick exterior to achieve a more contemporary architectural presentation.

Internal Reconfiguration

- Internal layout modifications within the dwelling to enhance functionality, circulation and liveability, including reconfigured living, kitchen and bedroom spaces.

**5. Notification**

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

- 3/208 Alison Road, Randwick
- 9/208 Alison Road, Randwick
- 10 Rae Street, Randwick

Issue	Comment
<p>Height of carpark roof structure</p> <p>Request concerns about the potential impact on light, solar access and amenity be considered in the assessment process.</p>	<p>Sun view diagrams received by Council showing that the proposed roof structure will not cause any overshadowing of the north facing windows of units in No. 208 Alison Road. The rear hardstand area is not required to be provided with solar access under DCP or ADG policy controls.</p>
<p>Interpretation of plans</p> <p>It is difficult to interpret the height of the proposed carpark roof structure and request Council to provide additional details on height in metres and scaled drawings showing before and after.</p>	<p>The application included existing and proposed elevation plans with RL levels, which are referenced to the survey plan. The existing car parking structure has a maximum height of RL73.52 representing the height of the existing wire cage fence atop the carpark and the Application shows the roof over to RL75.98 which represents an average height of around 5.3m above the neighbour’s concreted rear yard used to navigate into garages.</p>
<p>Visual bulk and privacy</p> <p>Although the current structure is only 2 storeys, it is on elevated ground in relation to our property, so it feels quite imposing already, looking straight into our rear yard. Adding another storey will lose a lot of privacy.</p>	<p>The proposed new level contains windows attached to a bedroom located around 33m from the rear yard of No. 10 Rae St, which is considered sufficient separation for reasonable privacy and visual bulk. The proposed northern terrace is further stepped back behind the pool providing a larger separation.</p> <p>Condition for some eastern screening is to be provided to assist the privacy interface and reduce some overlooking to 4 Rae Street.</p>



Issue	Comment
<p>Overshadowing</p> <p>The additional structure will block westerly sun into our back yard.</p>	<p>The amended sun view diagrams show some additional overshadowing to this neighbour's rear yard. The additional overshadowing is a result more of the natural topography of the surrounding area, which drops sharply to the east rather than the adoption of an inappropriate built form outcome.</p>

**6. Relevant Environment Planning Instruments**

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

A BASIX certificate has been submitted in accordance with the requirements of the SEPP.

**6.2. SEPP (Biodiversity and Conservation) 2021**

Chapter 2 of the SEPP applies to the Application and subject site. The aims of this Chapter are:

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

The proposed development does not involve the removal of any vegetation (including any trees). As such, the Application achieves the relevant objectives and provisions under Chapter 2.

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

Chapter 4 - Remediation of Land

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

The nature and location of the proposed development (involving alterations and additions at the upper levels for the residential component and elevated carpark) are such that any applicable provisions and requirements of the SEPP have been satisfactorily addressed.

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

The subject site is zoned R3 Medium Density Residential as identified on the Land Zoning Map of RLEP 2012. The existing building on the subject site comprises a mixed use being a dwelling on the first floor and a vehicle body repair workshop on the ground and basement level. The subject Application relates to works to the whole of the building, with most of the works associated with the dwelling.

A “dwelling” and “vehicle body repair workshop” are separately defined under the Dictionary definitions of the RLEP 2012. As such, the existing use associated with the proposed development would be appropriately defined as a dwelling and vehicle body repair workshop. Pursuant to the Land Use Table in Part 2 of RLEP, a “vehicle body repair workshop” is not listed as a permissible use with consent in the R3 zone.

“*Shop top housing*” is further not a permissible use. The existing development is not defined as shop top housing as *vehicle body repair workshop* is not defined as a type of *commercial, business, or retail premises* under RLEP.

The Applicant states that the site benefits from existing use rights pursuant to Division 4.11 of the Environmental Planning and Assessment Act 1979. Section 4.65 of Division 4.11 requires that the use of a building, work or land was lawfully granted and commenced and in existence prior to the

coming into effect of RLEP. Furthermore, under Section 4.66, the use is presumed to be abandoned, unless the contrary is established, if the use ceases for a continuous period of 12 months.

The dwelling (caretakers' residence) and vehicle body repair workshop use of the site was lawfully created via Development Consent DA/194/1975, which granted approval for a motor vehicle repair building on 25<sup>th</sup> February 1976. In addition, the subject assessment report from 1976 also noted that site had also operated as a "panel beating shop" prior to this approval date. There is no evidence to suggest that the approved use has been discontinued for any period of over 12 months since its commencement.

In view of the above, it is considered that existing use rights pertain to the site under Part 4, Division 4.11 of the EP&A Act and Part 5 of the EP&A Regulation 2021, and the subject application therefore may be considered and determined under the "existing use" provisions and an assessment is carried out against the planning principle for existing use rights identified by the Land and Environment Court in the key issues section of this report.

Section 4.67 of the EP&A Act provides that any provisions in an instrument that would derogate from the "incorporated provisions" of the Act would have no force or effect. This effectively means that provisions (objectives, controls, or standards) of an environmental planning instrument that would restrict the redevelopment of the site do not apply. In the context of the Application, it is not considered that the development standards such as the maximum 12m Height of Buildings and 0.9:1 Floor space ratio would prohibit the ongoing mixed use of the site and therefore, the following development standards in the RLEP 2012 apply to the Application:

Clause	Development Standard	Application	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.9:1 (561.24sqm)	1.67:1 (1044.5sqm)	No – see Clause 4.6
Cl 4.3: Building height (max)	12m	13.9m	No – see Clause 4.6

**6.4.1. Clause 4.6 - Exceptions to development standards**

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

**6.4.2. Clause 5.10 - Heritage conservation**

Council's Heritage Planner's reviewed the application and raised no objection. Council is accordingly satisfied that the application is suitable as proposed with regard to the relevant heritage considerations under Clause 5.10.

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

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

Clause	Development Standard	Application	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max)	0.9:1 (561.24sqm)	1.67: 1 (1044.5sqm)	483.26m <sup>2</sup>	86.1%
Cl 4.3:	12m	13.9m	1.9m	15.83%

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- *A significant proportion of the FSR variation arises from existing basement workshop floor area below ground level, which does not contribute to perceived bulk or have any visual presence.*
- *The proposed alterations increase the GFA by only 68.2sqm, presenting as a modest built form compatible with neighbouring 2–3 storey residential buildings.*
- *The locality includes R3 and E1 zoned land, where 2–3 storey forms are expected, and the nearby LMR precinct within 400 m of Randwick Town Centre allows much greater height (22 m) and FSR (2.2:1) under the Housing SEPP.*
- *Accordingly, the variation will not result in development inconsistent with the desired future character.*

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

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

- *The Application presents as two storeys with a recessed third storey, ensuring a visually moderate scale consistent with the 12 m height intended for residential flat buildings.*
- *Setbacks from the southern boundary reduce visual bulk and enable solar access to neighbouring apartments.*
- *The building form incorporates articulation and responds to solar orientation.*
- *The submitted BASIX Certificate confirms compliance with required environmental and energy performance standards.*

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

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

- *The site is not located within a conservation area and is not adjacent to a heritage item.*
- *The applicant notes that there are no impacts on more distant heritage items due to substantial separation distances and the modest nature of the additions.*

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

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

- *The additional bulk presents as a compliant-scale 2–3 storey form and does not materially increase visual dominance.*
- *Overshadowing impacts are negligible, with all neighbouring properties retaining at least 3 hours of sunlight on 21 June.*
- *The Application does not result in loss of views, as surrounding dwellings orient outlooks primarily to the north and east.*
- *Privacy impacts are avoided through generous setbacks, recessing of the upper level, use of planter boxes, and passive room layouts on the upper floor.*

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

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

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

- *A substantial proportion of the non-compliant FSR is attributable to the existing excavated basement workshop, which is below ground level and has no streetscape impact. This aligns with case law (e.g., Merman Investments v Woollahra Council 2021), confirming that historic excavation can constitute a valid environmental planning ground.*
- *The development remains compatible with neighbouring 2–3 storey buildings, and the scale is modest compared with the 22 m height and 2.2:1 FSR encouraged in the nearby LMR precinct.*
- *No additional overshadowing, privacy or view loss arises from the parts of the building above the FSR limit.*
- *The built form presents as two storeys with a recessed third storey, maintaining an acceptable streetscape character.*



- *The development represents orderly and economic use of land and improves residential amenity, consistent with Section 1.3 of the EP&A Act.*

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

### Conclusion - FSR

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) (a and b) have been satisfied, the Application achieves the objectives of the FSR standard, avoids adverse impacts, and is supported by site-specific planning grounds.

It is therefore considered that development consent may be granted for a development that contravenes the FSR development standard, and that development consent may be granted for development that contravenes the FSR development standard.

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

The applicant's written justification for the departure from the Height of Buildings (HOB) standard is contained in Appendix 2. The proposed development exceeds the 12m maximum height under Clause 4.3 of RLEP 2012, with a maximum height of 13.9m (a 1.9m/15.83% variation) primarily attributable to previous basement excavation on the site.

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

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

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

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

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

- *The height and bulk are compatible with the surrounding 2–3 storey built form, including the dwelling to the north and larger residential flat building to the south.*
- *The exceedance relates only to a recessed portion of the second floor, which is not readily visible from Lingard Street due to its setback and screening vegetation.*
- *The site sits within the LMR precinct close to Randwick Town Centre, where significantly greater heights are permitted under SEPP (Housing) 2021 (up to 22m), meaning the Application remains low-scale relative to the broader planning context.*

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

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

- *The subject site is not in a heritage conservation area.*
- *The site is not a heritage item, with the closest heritage items being 212 and 214 Alison Road to the southeast of the site, and 115-127 Avoca Street to the west across Lingard Street.*

- *There are no adverse impacts on the heritage items due to the substantial separation distance and the modest nature of the additions.*
- (c) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

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

- *The portion above the height limit is modest, recessed, and will appear compliant from the street.*
- *Shadow analysis shows no additional overshadowing of adjoining properties, with neighbouring dwellings still receiving more than 3 hours of sunlight on 21 June.*
- *Privacy impacts are avoided through setbacks, planter boxes and the passive nature of upper-level rooms.*
- *No view loss arises because existing outlooks from surrounding properties are predominantly oriented north and east.*

Assessing officer's comment: The applicant's written request has adequately demonstrated that compliance with the Height of Buildings development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

- *The exceedance arises almost entirely due to historical basement excavation, consistent with case law finding such situations constitute valid environmental planning grounds (Merman Investments Pty Ltd v Woollahra Council 2021).*
- *The additional height is limited to the rear/eastern portion and does not affect the building's perceived height from Lingard Street.*
- *The proposed height remains compatible with neighbouring buildings and the desired future character, particularly given proximity to the Randwick Town Centre LMR precinct where much greater heights are envisaged.*
- *No adverse environmental impacts arise in terms of overshadowing, privacy, or streetscape presentation.*
- *The design improves the amenity of the dwelling and constitutes orderly and economic use of land consistent with s1.3 of the EP&A Act*

Assessing officer's comment: The applicant's written request has adequately demonstrated sufficient environmental planning grounds to justify the contravention.

**Conclusion - HoB**

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) (a and b) have been satisfied and that strict compliance with the HOB standard is unreasonable and unnecessary and there are sufficient environmental planning grounds to support the variations. Accordingly, it is considered that development consent may be granted for development that contravenes the HOB development standard.

**8. Development control plans and policies**

**8.1. Randwick Comprehensive DCP 2013**

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

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

**9. Environmental Assessment**

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

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

Section 4.15 'Matters for Consideration'	Comments
	impacts on the locality. Accordingly, the Application is considered to be in the public interest.

**9.1. Discussion of key issues**

**9.1.1. Existing use rights assessment**

The Land and Environment Court has established a planning principle for urban development (Fodor Investments v Hornsby Shire Council, 2005) which establishes criteria for the assessment of Applications on land with existing use rights. An assessment of the Application against the planning principle for existing use rights is provided below, addressing bulk and scale, the relevance of the existing building, impacts on adjoining land, and internal amenity.

**How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the Application relate to what is permissible on surrounding sites?**

*While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.*

The proposed alterations and additions result in a built form that remains compatible with the scale permitted and commonly observed on surrounding sites. While the development numerically exceeds the applicable height and FSR standards under the RLEP 2012, these exceedances are largely attributable to existing site conditions—most notably the historic excavated basement, which contributes floor space and height in a technical sense but does not increase the building’s apparent bulk. The above-ground presentation remains consistent with a 2–3 storey residential form, which aligns with the established character of neighbouring dwellings. Furthermore, the broader locality includes precincts where significantly greater development intensity is permitted (up to 22 m in height and 2.2:1 FSR under the Housing SEPP), meaning the Application is modest in comparison to the emerging planning context. Accordingly, the scale of the development is appropriate and does not exceed what could reasonably be anticipated for the area.

**What is the relevance of the building in which the existing use takes place?**

*Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.*

The existing building plays an important role in assessing the reasonableness of the proposed continuation and modification of the use. The structure already supports the established residential use, and the Application retains the essential form and footprint of the dwelling. The portions contributing to non-compliance—namely the lower-ground workshop area—are located below natural ground level and do not alter the visual perception of height or floor space. The proposed works extend and improve the existing built form without introducing scale or intensity beyond that reasonably expected for residential development in this context. The existing building therefore provides a suitable and logical foundation for the continuation of the use in accordance with existing use rights.

**What are the impacts on adjoining land?**

*The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.*

The Application does not generate adverse impacts on neighbouring properties. Solar access testing confirms that all adjoining dwellings continue to receive a minimum of three hours of sunlight on 21 June, with no additional overshadowing arising from the proposed works. Privacy is effectively managed through appropriate setbacks, upper-level recessing, planter boxes, and the passive nature of rooms on the top floor, minimising opportunities for direct overlooking. The development does not result in view loss, as surrounding dwellings orient their outlooks primarily to the north and east, and the height increase is limited to a recessed and visually contained portion of the upper level. The scale, siting, and articulation of the Application therefore maintain acceptable amenity for adjoining landowners.

### **What is the internal amenity?**

*Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.*

The Application achieves satisfactory internal amenity for future occupants. The dwelling benefits from improved natural light, ventilation and spatial configuration, and the design responds appropriately to solar orientation. The recessed third level and generous setbacks also assist in maintaining daylight penetration within the internal spaces. Compliance with BASIX energy and thermal performance requirements further demonstrates that the Application provides a comfortable and environmentally responsive internal living environment. Overall, the quality of internal amenity is considered appropriate for a dwelling of this type and consistent with planning expectations.

#### 9.1.2. Exception to and exceedance of development standards

##### Height of Building

The key issues relating to the Clause 4.6 request primarily concern the extent of the height variation, its visual and environmental implications, and whether there are sufficient planning grounds to support the departure. The Application exceeds the 12m height limit by 1.9m, with the variation arising almost entirely from historic basement excavation rather than excessive bulk or an over-scaled design. The additional height is confined to a recessed rear portion of the upper level and does not affect the building's presentation to the street. Despite the numerical non-compliance, the development continues to meet the objectives of the Height of Buildings standard, maintaining compatibility with the surrounding 2–3 storey context, avoiding any heritage impacts, and ensuring that amenity outcomes—including visual bulk, privacy, overshadowing, and views—remain acceptable. Strict compliance is therefore considered unnecessary, as reducing the height would not result in a materially improved planning outcome. There are also sufficient environmental planning grounds to justify the variation, including the site-specific excavation condition recognised in case law, the Application's consistency with the evolving character of the nearby LMR precinct where greater heights are anticipated, and the absence of adverse environmental impacts. Collectively, these factors support the conclusion that the height variation is reasonable, well-founded, and capable of approval under Clause 4.6.

##### Floor space Ratio

The key issues associated with the Clause 4.6 variation to the FSR standard relate to the extent of the numerical exceedance, its effect on built form outcomes, and whether there are sufficient planning grounds to justify the departure. A significant proportion of the non-compliant floor space arises from the existing excavated basement, which does not contribute to visual bulk or streetscape presence, meaning the exceedance is largely technical rather than reflective of an oversized building. The proposed alterations add only a modest amount of new gross floor area and result in a dwelling that continues to present as a well-articulated 2–3 storey form consistent with the surrounding residential character. The additional floor space does not give rise to adverse amenity impacts, with shadowing, privacy, view loss and visual bulk outcomes remaining acceptable and generally unchanged compared with a compliant scheme. The Application also sits within an



evolving urban context where higher-density outcomes are anticipated in nearby precincts, and therefore the variation does not undermine the desired future character of the locality.

Strict compliance with the FSR standard is considered unnecessary in this case, as reducing floor space would not meaningfully change the appearance, scale or environmental performance of the development. The applicant has also demonstrated sufficient environmental planning grounds, including the influence of historical excavation (consistent with relevant case law), the compatibility of the Application with its residential context, and the absence of adverse environmental effects. The development delivers improved internal amenity and represents the orderly and economic use of land, consistent with the objectives of the EP&A Act. Collectively, these matters support the conclusion that the variation is reasonable, well-founded, and capable of approval under Clause 4.6.

#### 9.1.3. Response to Design Excellence Advisory Panel

The Application was referred to the Design Excellence Advisory Panel. They provided detailed comments for consideration of the Application against the design excellence principles.

It was requested that the Applicant respond to the DEAP comments through amended drawings. The comments of the DEAP are satisfied as follows.

##### Principle 1: Context and Neighbourhood Context

The DEAP outlined the context of the immediate surrounding area. Council is in agreement with the DEAP's observations.

Planner comment: No comment or amendments were required as a result of principle 1.

##### Principle 2: Scale and Built Form

- *The proposal is retaining the existing built form with the additional of one floor above the residential dwelling, to create a two storey dwelling. This creates a 3-4 storey building consistent in height with the apartment blocks on Alison Road.*
- *A roof over the existing carpark creates a two storey built form, consistent with the streetscape.*

Planner comment: The DEAP identified the resulting built form would suitably integrate with the streetscape.

##### Principle 3: Density

- *The maximum floor space is 0.9:1, the proposed development is 1.56:1, considerably over the maximum.*
- *The additional floor space created to the existing building is only via the additional floor, which is consistent with the heights of the surrounding buildings. Further much of the GFA is in the workshop being the basement and is not creating any perceived bulk.*

Planner comment: The Applicant amended FSR calculation to become accurate, being 1.67:1. The ground floor workshop (excluding access ramps), and lifts on all levels have been counted as GFA. There was no appreciable change to the above ground form as reviewed by the Panel, with revisions only relating to the adoption of the Panel's design recommendations.

The internal void, which does not attribute GFA, does contribute additional bulk to the built form. The Applicant has retained that internal void and provided the following comments.

The void space remains as originally proposed as this is a crucial intervention to allow the house to perform passively and to connect the new second level roof deck and master bedroom suite to the living space below. If the void was to be reduced in size winter sun would be screened from the living space below. Further, we intend to retain the existing load bearing wall positions that 1) separate the dining/sitting space from the bedrooms to the north and 2) at the south wall of the first level so the building envelope cannot be changed without completely redesigning the entire house. The only available way currently to reduce the void while retaining the load bearing wall positions is to increase the floor area of the master suite and the FSR. Please note the void space is crucial for views to and from the roof deck, master suite and living spaces below so to fill this in would be to the detriment of the house. We also propose lighting and sculpture to this void space.

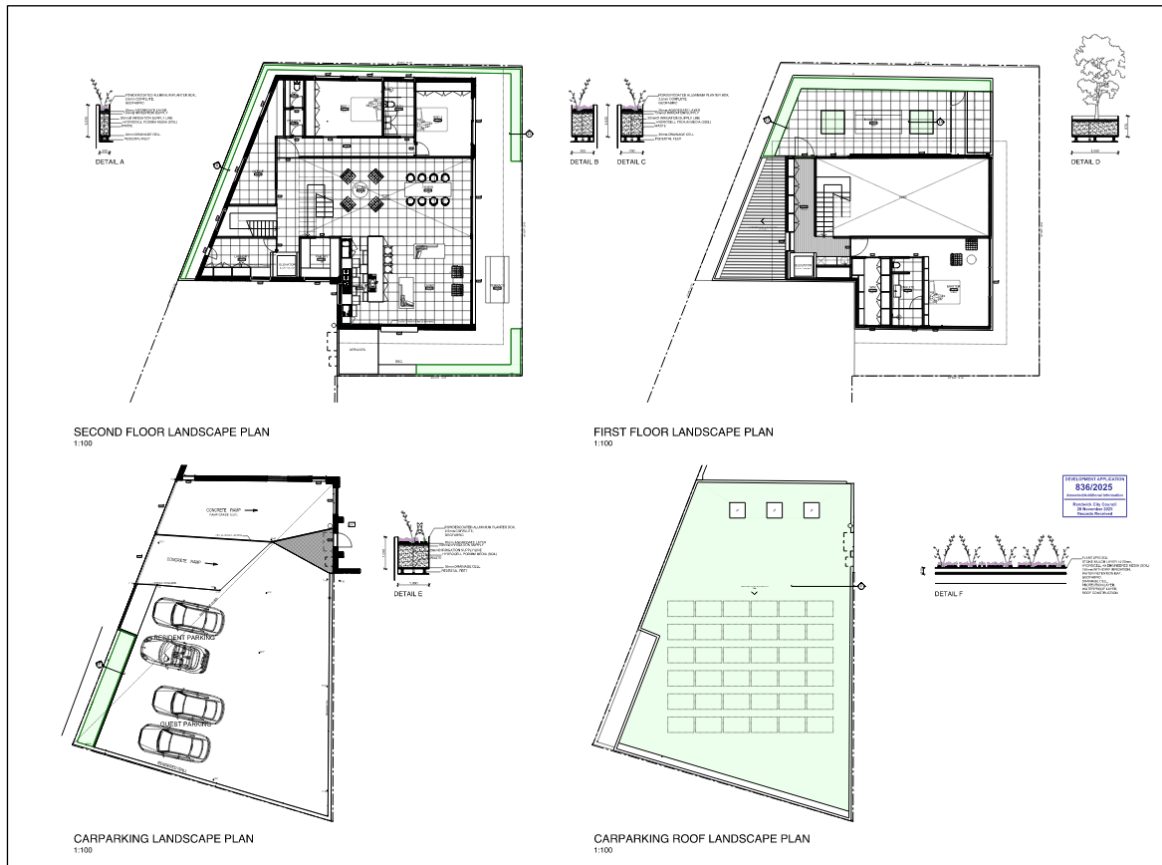
- **Figure 6** – Applicant DEAP response – page 1

Council finds the position of the applicant with relation to the void to be reasonable and acceptable. In assessing external bulk, scale, and built form, the consideration is predominantly on presentation in this instance and not numerical compliance due to the unique nature of the site and application.

Principle 4: Sustainability

- *The development should consider any further sustainable initiatives besides the solar panels, with the possibility of a green roofs over the roofed open space and carpark*

Planner comment: The Applicant has proposed a 241sqm roof garden atop the proposed car park roof, in addition to the existing solar panels (see below).



- **Figure 7** – Proposed landscape planting and green roof

Principle 5: Landscape

- *As the proposal is an existing building its non compliance with deep soil is acceptable.*
- *Although there is further opportunity in the alterations and additions to improve the soft landscaping to the proposal, for example the roofs, of particular note that over the open space and carpark. This can not only soften the streetscape but improve views from neighbouring properties*

- *The pool on the second floor appears to reduce the ceiling height of Bed 1 to under 2.7m. Further the detailing around the pool is likely to create more issues in section. To understand the full consequences of the pool a structural engineer should be engaged. The location of the pool plant should be documented on the drawings and should be in a location screened from the street.*
- *Many of the planter boxes indicated on the upper-level plans are inaccessible, or directly back onto blank walls. All elevated planters proposed should be accessible for maintenance, directly related to interior or exterior spaces, and designed with sufficient soil depth and width to ensure viability of the specimens planted. Detailed consideration needs to be given at the early stage to irrigation and drainage as well, to ensure watering and dewatering infrastructure will not be applied externally to the building*
- *The proposal would benefit by the engagement of a landscape architect. The architect should work closely with them to develop a cohesive design, with planting solutions that are viable, low-maintenance, and resilient*

Planner comment: The Applicant submits the following statement to Council's satisfaction.

Structural certification is to be conditioned for the pool in relation to bedroom 1 to ensure its suitability prior to the release of a construction certificate.

#### 4. Landscaping

We have worked with a landscape consultant that specialises in planter boxes and roof garden to develop the proposed landscape design. The amended proposal includes prefabricated powder coated aluminium planter boxes of varying appropriate sizes (see landscape plan for details) with integrated irrigation and drainage. The planter boxes have been increased in size where appropriate and where the existing structure allows while planter boxes to the north and west of the first floor level have been reduced in width to allow for access for maintenance to the irrigation and drainage systems as well as the planting. An additional planter box has been added to the roof deck and a roof garden added to the new roof to the car parking area. Primarily indigenous, low maintenance and hardy plant species have been selected for the site. We have been advised that the pairing of the solar panels and roof garden is advantageous in that plant species have been selected for this and the roof garden makes the solar panels perform more efficiently.

- **Figure 8** - Applicant DEAP response – page 2

#### Principle 6: Amenity

- *The entry experience for the resident is quite poor, whilst upgrading the dwelling, the entry experience should also be upgraded. The entry experience from the lift on Level one appears constrained, it may be worth making it more generous.*
- *It has been explained the car space (unclear how many) of the residential dwelling is co located with the parking/ servicing of the commercial tenancy. This should be reconsidered as it is not acceptable, a better outcome would be to locate the residential parking in the workshop where it can gain direct access to the stairs and lift.*
- *The amenity provided with the larger void over the living space is supported, as it provides northern light, but are concerned this will be infilled at a later stage.*
- *The laundry has a door to the balcony on Lingard Street, this is not the appropriate location for the clothesline, fronting the street. The clothesline location should be shown on the plans (in an appropriate location).*

Planner comment: The applicant has provided the below response in regard to the above matters raised. Council finds the amendments made to improve amenity to be satisfactory.

The entry to the residential dwelling has been amended to have an increased area and connect to the ground floor car park which is to be dedicated to that residential component. A metal awning has further been proposed to assist in identifying the entrance.

The clothesline location has been moved to the services area and would have its privacy interface improved via screening.

With regard to the changes made, Council is satisfied that the development would overall provide satisfactory amenity to the occupier of the dwelling. A condition is to be imposed on the use of the ground floor parking that it may only be used by the occupier of the dwelling and their visitors.

**5. Amenity**

The proposal has been amended to separate residential and workshop parking and access. The ground level carparking area to the south is now dedicated residential parking (two parking spaces for residents and two for guests) with access directly to the residential entry area containing stairs to the first level and the lift.

A clothes line has been included in the residential services area outside the kitchen that is screened from view by existing 1.8m high walls to the south and west of the services area.

The entrance to the residence has been upgraded as requested and shown on the plans and section (drawing 24a) with the entry area now a two level void with a new stair to match the proposed stair at the first floor level (single steel stringer and deep timber treads). This permeable stair design allows for light through to the entry level from the existing window at the first level and new window above the entry doors at the ground level.

As discussed with planning officer Louis Coorey the owners do not want to include a recessed entry to the street as requested by council because of the way similar recessed entrances to neighbouring dwelling are used by nightclub and pub patrons. Instead we propose a steel plate awning over the entry doors to more clearly define the entry to the residence and provide shelter. The steel plate awning links the street facade to the proposed second floor addition.

As noted earlier the void is crucial to the planning and performance of the proposed dwelling and will contain suspended lighting and sculpture and have a fully glazed and openable wall to the north. Further, the existing load bearing walls limit our ability to manipulate the size of the building envelope and we have maximised landscaping in relation to the existing structure and are further limited in where we are able to place heavy planter boxes.

- **Figure 9** - Applicant DEAP response – page 2

**Principle 7: Safety**

- *The residential car parking being co located with the service area/parking of the tenancy creates safety issues. Further the residents need to walk down the existing concrete ramp and out the steel roller door to the street, to access their dwelling. This is not acceptable.*

Planner comment: The Application has been amended to provide separate circulation for each use.

A condition is to be imposed requiring signage, which differentiates these entrances from Lingard Street.

**Principle 8: Housing Diversity and Social Interaction**

- *The proposal has not increased the number of dwellings, rather it increases the size of the existing, to a large three bedroom unit.*

Planner comment: No comment required.

**Principle 9: Aesthetics**

- *The upgrade of the building façade is supported. As all windows are being replaced, relocation of some of them on street level to improve the façade may be considered.*
- *The Lingard Street façade on Level 1 has aluminium louvres for most of its extent, it is unclear why these are needed. Further the louvres go across the blank wall, and these are not shown in plan. More consideration of the architectural expression of this floor should be explored.*
- *The upgraded façade should also consider the type of roller doors and how these can improve the façade design to Lingard Street.*

Planner comment: Windows proposed are suitable and compliant with BASIX requirements.

Louvres have been amended to be displayed on proposed drawings. They are suitable with regard to the overall design of the application and the relevant requirements for BASIX.

Proposed roller doors are suitable and in line with the immediate streetscape. They are further typical of the ground floor use.

#### Conclusion

Noting that the above matters raised by the DEAP have been appropriately taken into consideration. Council is satisfied that the Application as proposed has been amended to achieve design excellence.

### **10. Conclusion**

That the application to carry out alterations and additions to the existing mixed-use building comprising a dwelling on the upper level— including construction of an additional level with roof terrace and swimming pool, replacement of windows and doors, rendering of the existing brick exterior, installation of a roof over the existing car parking area, and reconfiguration of internal dwelling spaces — be approved (subject to conditions) for the following reasons:

- The Application is consistent with the objectives of the RLEP 2012, the relevant requirements of the RDCP 2013 and the mandatory considerations for existing use rights, noting that the development presents as a modest 2–3 storey built form that is compatible with both the established and emerging character of the locality, and that the Clause 4.6 variations to height and FSR have been adequately justified.
- The Application is consistent with the objectives of SEPP 65 (Housing SEPP), achieving an acceptable level of residential amenity, appropriate articulation, solar access, and energy efficiency, as confirmed through BASIX compliance and the satisfactory design response.
- The Application is consistent with the specific objectives of the R3 Medium Density Residential zone, in that it maintains the existing use on the site while facilitating a well-integrated form of residential development that complements the existing mixed-use character and supports the orderly and economic use of the land.
- The scale and design of the Application are suitable for the location and compatible with the desired future character of the locality, with the visible massing remaining consistent with surrounding 2–3 storey residential development and significantly below the future intensity anticipated in nearby precincts.
- The design and planning outcome represents an improvement to the area, providing a more contemporary and articulated built form that better responds to solar orientation, site conditions, and surrounding development.
- The development enhances the visual quality of the public domain and streetscape, replacing ageing building elements, introducing improved architectural finishes, and consolidating the built form without creating additional visual bulk.
- The proposed development will make a positive contribution to the streetscape, maintaining appropriate setbacks, presenting a well-articulated façade, and ensuring that the additional height and floor space are contained in a manner that does not detract from the prevailing character or amenity of the locality.



## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. Development Engineer

*An application has been received for alterations and additions to existing mixed-use building comprising dwelling (residential unit) on the upper level, involving construction of an additional level on top of the dwelling with a roof terrace and swimming pool, replacement of existing windows and doors, render existing brick exterior, installation of roof over existing car parking area and reconfiguration of internal spaces within existing dwelling.*

*This report is based on the following plans and documentation:*

- *Architectural Plans by Ben Lance Architects dated 12/5/2025*
- *Statement of Environmental Effects by ABC Planning dated July 2025*
- *Detail & Level Survey by Altitude Surveys dated 13/5/2025*
- *Stormwater Drainage Plans by Partridge dated 28/7/2025*

#### **General Comments**

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

#### **Parking Comments**

*The site currently provides a generous amount of off-street carparking via a ramp down to the basement level as well as within the existing body shop and also outside within in a carpark adjacent to the southern side of the building. The total number of spaces is unclear however is likely to exceed 15 spaces. The proposed development will not increase the number of bedrooms and hence will not increase the parking demand on the site.*

*The SEE states 2 carspaces are currently allocated to the dwelling which will remain unchanged. This is acceptable.*

#### **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 either:*

- a) *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 27<sup>th</sup> May 2014 it was resolved that;*

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

*The subject **is not** located within 15m of a power pole on the same side of the street hence the above clause **is not** applicable.*

## 1.2. Heritage Planner

*Heritage context:*

*The site is not a heritage item however it is located in the vicinity of the following heritage items and HCAs:*

- *'Residential flat building' at 212–214 Alison Road, Randwick (Item no. 261)*
- *'Part of Victorian and inter-war building' at 139–145 Avoca Street, Randwick (Item no. 278)*
- *'Victorian and inter-war building (shopfronts with residences above)' at 115–137 Avoca Street, Randwick (Item no. 273)*
- *'Coach and Horses Hotel' at 147 Avoca Street, Randwick (Item no. 280)*
- *'Small Gothic church' at 1 Rae Street, Randwick (Item no. 433)*
- *'Part of historic residential streetscape' at 3, 5, 7 and 9–11 Rae Street, Randwick (Item no. 434)*
- *Randwick Junction HCA (C15)*
- *St Marks HCA (C18)*

*Internal comments:*

- *The site is physically separated from the nearby heritage items and unlikely to adversely impact those items.*
- *The existing garages and roller doors along the boundary of the HCA (Lingard St) do not reflect the historic character of the Randwick Junction HCA. The proposal is consistent with the existing use of the site and laneway.*
- *The first and second storeys are setback from the laneway and unlikely to be readily visible from Avoca Street, within the Randwick Junction HCA.*
- *The existing brickwork will be rendered. The materials and colours proposed are neutral in colour. The tiled upper floor is acceptable. However, any changes to the proposed materials and colours schedule should be referred to Council's heritage team for review and comment.*

*Overall, the alterations and additions will not have an adverse impact on the heritage items in the vicinity or the adjacent HCA.*

## 1.3. Design Excellence Advisory Panel (DEAP)

The DA was referred to the Design Excellence Panel for advice concerning the design quality of the development. The panel advised in summary the following:

### **PANEL COMMENTS**

*Generally the package of drawings submitted were difficult to read, more care should be put into the architectural package so that boundary, site extents, existing and proposed are documented clearly. There also seems to be inconsistency between the plans and elevations.*

#### **Principle 1: Context and Neighbourhood Context**

- *The site is zoned R3 Medium Residential*
- *The subject site is on an irregular site with a sole frontage to Lingard Street*
- *The existing building on the site is a three level mixed use development with a vehicle body repair station on ground and basement with first floor caretakers residence. There is an open carpark associated with the repair shop adjacent to the two storey building*
- *The site adjoins 4 properties, 2 on either side of Lingard Street (2 Rae St and 208 Alison Rd), with its rear abutting 4 Rae Street and 210 Alison Road. All these properties are residential in nature.*
- *On the opposite side of Lingard Street are rear entries to commercial properties facing Avoca Street.*
- *The existing use rights apply to the vehicle repair station which is not permissible in the R3 medium density residential zone.*

#### **Principle 2: Scale and Built Form**

- *The Application is retaining the existing built form with the additional of one floor above the residential dwelling, to create a two storey dwelling. This creates a 3-4 storey building consistent in height with the apartment blocks on Alison Road.*
- *A roof over the existing carpark creates a two storey built form, consistent with the streetscape*

### **Principle 3: Density**

- *The maximum floor space is 0.9:1, the proposed development is 1.56:1, considerably over the maximum*
- *The additional floor space created to the existing building is only via the additional floor, which is consistent with the heights of the surrounding buildings. Further much of the GFA is in the workshop being the basement and is not creating any perceived bulk.*

### **Principle 4: Sustainability**

- *The development should consider any further sustainable initiatives besides the solar panels, with the possibility of a green roofs over the roofed open space and carpark*

### **Principle 5: Landscape**

- *As the Application is an existing building its non-compliance with deep soil is acceptable*
- *Although there is further opportunity in the alterations and additions to improve the soft landscaping to the Application, for example the roofs, of particular note that over the open space and carpark. This can not only soften the streetscape but improve views from neighbouring properties*
- *The pool on the second floor appears to reduce the ceiling height of Bed 1 to under 2.7m. Further the detailing around the pool is likely to create more issues in section. To understand the full consequences of the pool a structural engineer should be engaged. The location of the pool plant should be documented on the drawings and should be in a location screened from the street.*
- *Many of the planter boxes indicated on the upper-level plans are inaccessible, or directly back onto blank walls. All elevated planters proposed should be accessible for maintenance, directly related to interior or exterior spaces, and designed with sufficient soil depth and width to ensure viability of the specimens planted. Detailed consideration needs to be given at the early stage to irrigation and drainage as well, to ensure watering and dewatering infrastructure will not be applied externally to the building*
- *The Application would benefit by the engagement of a landscape architect. The architect should work closely with them to develop a cohesive design, with planting solutions that are viable, low-maintenance, and resilient*

### **Principle 6: Amenity**

- *The entry experience for the resident is quite poor, whilst upgrading the dwelling, the entry experience should also be upgraded. The entry experience from the lift on Level one appears constrained, it may be worth making it more generous*
- *It has been explained the car space (unclear how many) of the residential dwelling is co located with the parking/ servicing of the commercial tenancy. This should be reconsidered as it is not acceptable, a better outcome would be to locate the residential parking in the workshop where it can gain direct access to the stairs and lift.*
- *The amenity provided with the larger void over the living space is supported, as it provides northern light, but are concerned this will be infilled at a later stage*
- *The laundry has a door to the balcony on Lingard Street, this is not the appropriate location for the clothesline, fronting the street. The clothesline location should be shown on the plans (in an appropriate location).*

### **Principle 7: Safety**

- *The residential car parking being co located with the service area/parking of the tenancy creates safety issues. Further the residents need to walk down the existing concrete ramp and out the steel roller door to the street, to access their dwelling. This is not acceptable.*

**Principle 8: Housing Diversity and Social Interaction**

- *The Application has not increased the number of dwellings, rather it increases the size of the existing, to a large three-bedroom unit.*

**Principle 9: Aesthetics**

- *The upgrade of the building façade is supported. As all windows are being replaced, relocation of some of them on street level to improve the façade may be considered.*
- *The Lingard Street façade on Level 1 has aluminium louvres for most of its extent, it is unclear why these are needed. Further the louvres go across the blank wall, and these are not shown in plan. More consideration of the architectural expression of this floor should be explored.*
- *The upgraded façade should also consider the type of roller doors and how these can improve the façade design to Lingard Street.*

**SUMMARY AND RECOMMENDATIONS**

*The Panel believes further design development of the Application is required.*

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

*Updated Clause 4.6 (Height)*

*1 Lingard Street, Randwick*

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

**1 LINGARD STREET, RANDWICK**

*Alterations and additions to the existing vehicle body repair workshop and approved caretaker's  
residence*

PREPARED BY

ABC PLANNING PTY LTD

November 2025

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*ABC Planning Pty Ltd*

*November 2025*



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

This Clause 4.6 variation request has been prepared to accompany the Development Application for the alterations and additions to the existing vehicle body repair workshop and approved caretaker’s residence at 1 Lingard Street, Randwick.

Due to existing use rights, the proposal is assessed under the relevant provisions of the Act and Regulations. No changes are proposed to the vehicle body repair workshop on the ground floor.

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

<p><b>Clause 4.6 Exceptions to development standards</b></p> <p>(1) <i>The objectives of this clause are as follows—</i></p> <p style="padding-left: 40px;">(a) <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></p> <p style="padding-left: 40px;">(b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></p> <p>(2) <i>Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i></p> <p>(3) <i>Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—</i></p> <p style="padding-left: 40px;">(a) <i>compliance with the development standard is unreasonable or unnecessary in the circumstances, and</i></p> <p style="padding-left: 40px;">(b) <i>there are sufficient environmental planning grounds to justify the contravention of the development standard.</i></p> <p>Note—</p> <p style="padding-left: 40px;"><i>The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).</i></p> <p>(4) <i>The consent authority must keep a record of its assessment carried out under subclause (3).</i></p> <p>(5) <i>(Repealed)</i></p> <p>(6) <i>Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—</i></p> <p style="padding-left: 40px;">(a) <i>the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</i></p> <p style="padding-left: 40px;">(b) <i>the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</i></p> <p>(7) <i>(Repealed)</i></p> <p>(8) <i>This clause does not allow development consent to be granted for development that would contravene any of the following—</i></p> <p style="padding-left: 40px;">(a) <i>a development standard for complying development,</i></p>
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D80/25

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

(c) clause 5.4,  
 (caa) clause 5.5,  
 (ca) clause 6.16(3)(b)

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

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

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

**Development Standard to be Varied**

The proposal seeks a variation to the development standard contained within Clause 4.3 of the Randwick LEP 2012. The maximum permissible height of a building is 12m as shown on the RLEP2012 map below.

The maximum variation is associated with half of the second floor, which has a maximum height of 13.9m (1.9m variation or 15.83%) due to the already excavated ground level below the Lingard Street frontage.



Figure 1: Building Height Map

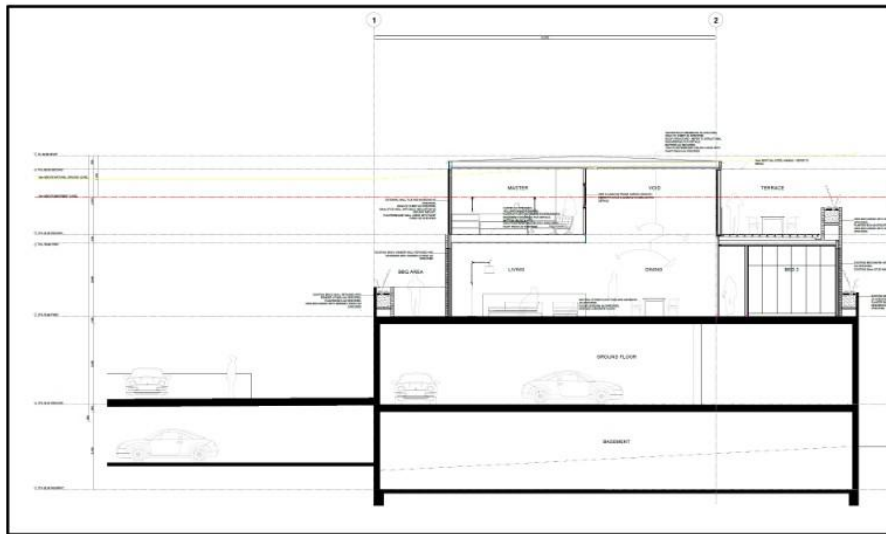


Figure 2: Excerpt of section A, noting the 12m maximum building height line is approximately in the middle of the second floor addition

**Justification for Contravention of the Development Standard**

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

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

**5-Part test**

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

The 5-Part Test is summarised as follows:

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

- 1. objectives of the development standard are achieved notwithstanding the non-compliance**
2. *underlying objective or purpose is not relevant to the development*
3. *underlying objective or purpose would be defeated or thwarted if compliance was required*

*Updated Clause 4.6 (Height)*

*1 Lingard Street, Randwick*

4. *development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard*
5. *zoning of the land on which the development is proposed was unreasonable or inappropriate.*

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

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

<b>Consistency with the Objectives of the Building Height Development Standard in the LEP</b>	
<b>Objectives</b>	<b>Assessment</b>
<i>(a) to ensure the height of buildings is compatible with the character of the locality,</i>	<p>The height of the building, inclusive of the component over the height limit is compatible with the character of the locality, with a two storey dwelling house adjoining the subject site to the north fronting Lingard Street having a similar height. The residential flat building to the south has a greater height, with the subject site being subservient to the large scale.</p> <p>The component that is associated with the greatest extent of height departure is part of the second floor, which is a recessed element that will not be readily evident from the street frontage, as it would appear as being compliant from Lingard Street. Such a component does not generate any incompatibility with the character of the locality due to its confined form and surrounding planting.</p> <p>The character of the locality includes a range of single dwellings and residential flat buildings as the site and adjoining sites are within an R3 Medium Density Residential zone area and E1 Mixed Use Area. Such zoning, FSR (0.9:1) and height standard of 12m allow for 2-3 storey residential flat buildings. Furthermore, the site is within the LMR precinct, being within 400m from Randwick Town Centre. The inner area controls within the associated SEPP (Housing) 2021 allow for a height of 22m/6 storeys and FSR of 2.2:1. On this basis, the built form and associated height variation represent a modest form of development that is far less visually intrusive and bulky than potentially permitted.</p> <p>On this basis, it is considered that the proposed height variation will not generate any incompatibility with the character of the locality.</p>
<i>(b) to ensure that development is compatible with the scale and character</i>	<p>The subject site is not in a heritage conservation area. The site is not a heritage item, with the closest heritage items</p>



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<p>of contributory buildings in a conservation area or near a heritage item</p>	<p>being 212 and 214 Alison Road to the southeast of the site, and 115-127 Avoca Street to the west across Lingard Street. There are no adverse impacts on the heritage items due to the substantial separation distance and the modest nature of the additions.</p>
<p>(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.</p>	<p>The proposed exceedance of the height control will not create unreasonable environmental amenity impacts in terms of visual bulk, loss of privacy, overshadowing or loss of views, and a reduction in this height would not create additional benefit for adjoining properties or the locality.</p> <p><u>Visual Bulk:</u> The presentation of the building is subservient to the residential flat building to the south which is greater in height than the proposed. The portion over the height limit has been articulated not to impose upon the Lingard Street frontage.</p> <p><u>Overshadowing:</u> As demonstrated in the shadow diagrams submitted with this application, the neighbouring properties receive the required amount of sunlight to their habitable rooms and north facing windows with a minimum of 3hrs on June 21. The additional height causes no adverse impact of overshadowing on the neighbouring properties, with no shadow impacts on the dwelling house, sited to the north or residential flat building sited to the south. On this basis, the north-facing windows and private open space areas of the neighbouring properties maintain solar access, despite the height variation.</p> <p><u>View Loss:</u> The proposed height variation will not generate any impact on views from the public domain or surrounding properties. The views from surrounding neighbours are north and east facing and retained.</p> <p><u>Privacy:</u> Despite the building height variation, there are no elements capable of generating privacy issues over the height limit, with planters provided on the second floor northern boundary, and the second floor is a passive room, being a bedroom.</p> <p>On this basis, the elements over the height limit will not generate any adverse or unreasonable privacy impacts.</p>
<p><b>Consistency with the Objectives of the R3 Medium Density Residential Zone</b></p>	
<p><b>Objectives</b></p>	<p><b>Assessment</b></p>

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<ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a medium density residential environment.</i></li> <li>• <i>To provide a variety of housing types within a medium density residential environment.</i></li> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> <li>• <i>To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.</i></li> <li>• <i>To protect the amenity of residents.</i></li> <li>• <i>To encourage housing affordability.</i></li> <li>• <i>To enable small-scale business uses in existing commercial buildings.</i></li> </ul>	<p>The site is zoned R3 Medium Density Residential under the provisions of Randwick LEP 2012.</p> <p>The zone objectives are of limited relevance given the uses on the site are prohibited.</p> <p>Nevertheless, the proposed building height variation does not raise any inconsistency with the ability of the proposal to achieve the relevant objectives of the R3 Medium Density zone in that the proposal improves the residential amenity and protects the amenity of surrounding residences.</p> <p>Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the height variation.</p>
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Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality and meets the objectives of the development standard.

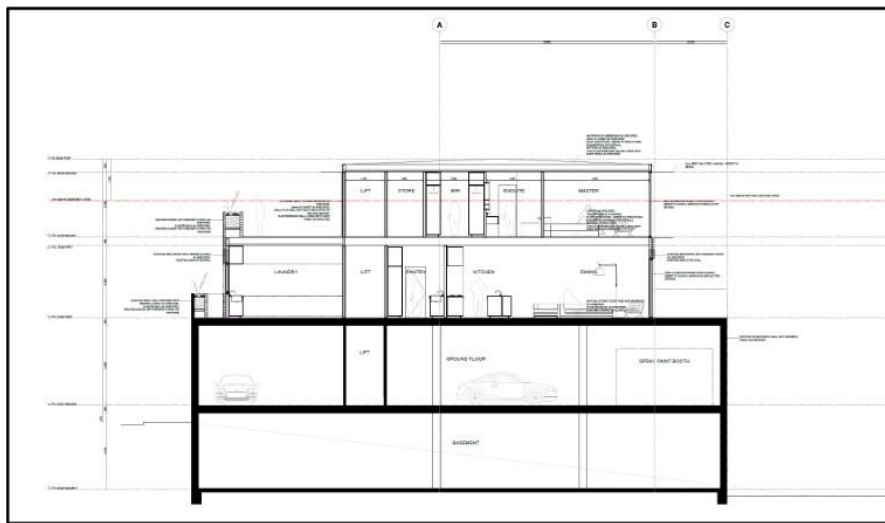
**4.6(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard**

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

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

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- The primary elements associated with the building height departure are limited to the second floor and roof at the eastern side of the building. Previous excavation on the site is responsible for the height variation for this component. Such circumstance is consistent with the findings of the judgement *Merman Investments Pty Ltd v Woollahra Council 2021*, whereby Commissioner O’Neill found that previous excavation which results in a height variation constitutes an environmental planning ground.
- The height variation associated with the remaining element beyond the built form fronting Lingard Street is due to the previously excavated basement, as shown in the long section below:



**Figure 3: Excerpt of section b which shows the location and extent components over the height limit, mainly due to the previous excavation below the Lingard Street frontage**

- Despite the building height non-compliance, the proposed height is compatible with neighbouring 2 and 3 storey buildings to the north and south of the site. The bulk and scale of the proposal is compatible with the existing and desired future character of the locality.
- The height variation is negligible given the site is within the LMR area and is within 400 metres from the Randwick Town Centre. A maximum height of 22m for residential flat buildings is what could potentially be provided on the site and within surrounding sites.

Updated Clause 4.6 (Height)

1 Lingard Street, Randwick



Figure 4: Excerpt of the Indicative LMR Map

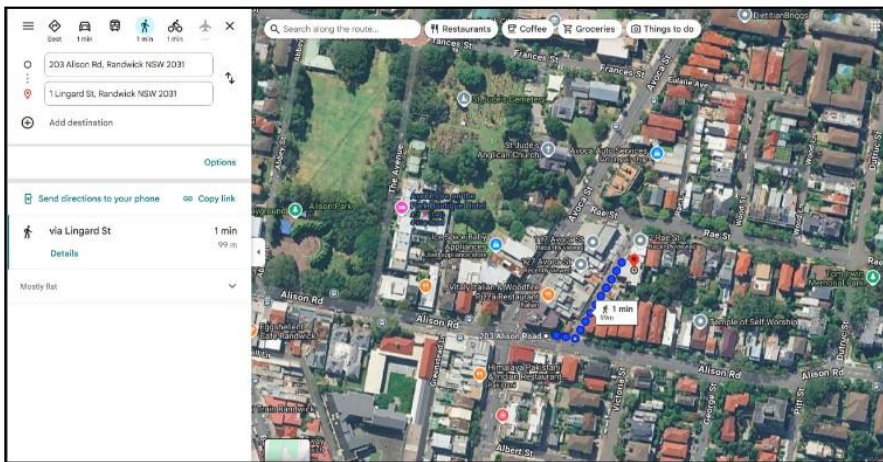


Figure 5: Excerpt of Google Map distance from subject site to town centre

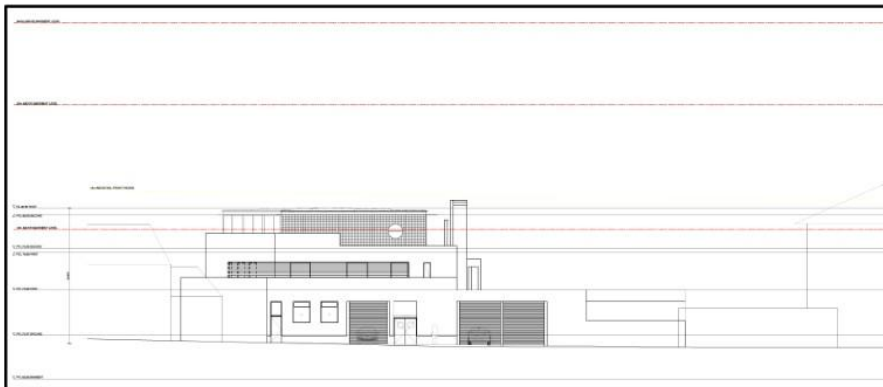


Figure 6: Excerpt of West Elevation with LMR height controls, noting the vast difference

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- As demonstrated in the Shadow Diagrams submitted with this application, despite the building height variation, the proposal will not result in unreasonable overshadowing to the surrounding properties. The east-to-west orientation of the site ensures that the north facing windows and private open space areas of the surrounding properties to the north and south remain unaffected by the portion above the height limit and receive a minimum of 3hrs of sunlight during June 21. The southern neighbouring units are located approximately 30m from the proposed additions which avoids any shadow impact. Such lack of impact is considered to constitute a sufficient environmental planning ground.
- The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. The proposed height breach will not result in the loss of views from surrounding development as the views and outlook from primary living and kitchen areas to the north and south are maintained.
- There are no streetscape impacts associated with the height variation as the portion above the height limit will appear as being compliant as the building presents to Lingard Street.
- The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).

The proposal will provide a suitable design and amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act and the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the building height variation in this instance.

### **Conclusion**

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

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

- economic welfare of the community and a better environment (Section 1.3(a))
- orderly and economic use and development of land (Section 1.3(c))
- protect the environment (Section 1.3(e))
- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3 (g))

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*1 Lingard Street, Randwick*

- proper construction and maintenance of buildings, including the protection of the health and safety of their occupants (Section 1.3(h))

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

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at 1 Lingard Street, Randwick and is requested to be looked upon favourably by the consent authority.

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*Updated Clause 4.6 (FSR)*

*1 Lingard Street, Randwick*

**UPDATED CLAUSE 4.6 VARIATION REQUEST TO FSR DEVELOPMENT STANDARD PURSUANT  
TO CLAUSE 4.4 OF RANDWICK LEP 2012**

**1 LINGARD STREET, RANDWICK**

*Alterations and additions to the existing vehicle body repair workshop and approved caretaker's  
residence*

PREPARED BY

ABC PLANNING PTY LTD

November 2025

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*ABC Planning Pty Ltd*

*November 2025*

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**CLAUSE 4.6 VARIATION REQUEST TO FSR DEVELOPMENT STANDARD PURSUANT TO  
CLAUSE 4.4 OF RANDWICK LEP 2012**

This Clause 4.6 variation request has been prepared to accompany the Development Application for the alterations and additions to the existing vehicle body repair workshop and approved caretaker’s residence at 1 Lingard Street, Randwick.

Due to existing use rights, the proposal is assessed under the relevant provisions of the Act and Regulations. No changes are proposed to the vehicle body repair workshop on the ground floor.

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

<p><b>Clause 4.6 Exceptions to development standards</b></p> <p>(1) <i>The objectives of this clause are as follows—</i></p> <p style="padding-left: 40px;">(a) <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></p> <p style="padding-left: 40px;">(b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></p> <p>(2) <i>Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i></p> <p>(3) <i>Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—</i></p> <p style="padding-left: 40px;">(a) <i>compliance with the development standard is unreasonable or unnecessary in the circumstances, and</i></p> <p style="padding-left: 40px;">(b) <i>there are sufficient environmental planning grounds to justify the contravention of the development standard.</i></p> <p>Note—</p> <p style="padding-left: 40px;"><i>The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).</i></p> <p>(4) <i>The consent authority must keep a record of its assessment carried out under subclause (3).</i></p> <p>(5) <i>(Repealed)</i></p> <p>(6) <i>Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—</i></p> <p style="padding-left: 40px;">(a) <i>the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</i></p> <p style="padding-left: 40px;">(b) <i>the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</i></p> <p>(7) <i>(Repealed)</i></p> <p>(8) <i>This clause does not allow development consent to be granted for development that would contravene any of the following—</i></p> <p style="padding-left: 40px;">(a) <i>a development standard for complying development,</i></p>
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(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,  
(c) clause 5.4,  
(caa) clause 5.5,  
(ca) clause 6.16(3)(b)

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

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

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

**Development Standard to be Varied**

The proposal seeks a variation to the development standard contained within Clause 4.4 of the Randwick LEP 2012. The maximum permissible FSR is 0.9:1 (561.24sqm) as shown on the RLEP2012 map below.

The proposal has an FSR of 1.67:1 (1044.5sqm), which is a variation of 483.26sqm or 86.1% to the FSR standard of 0.9:1 (561.24qm) under Clause 4.4 Randwick LEP 2012.



Figure 1: FSR Map

Updated Clause 4.6 (FSR)

1 Lingard Street, Randwick

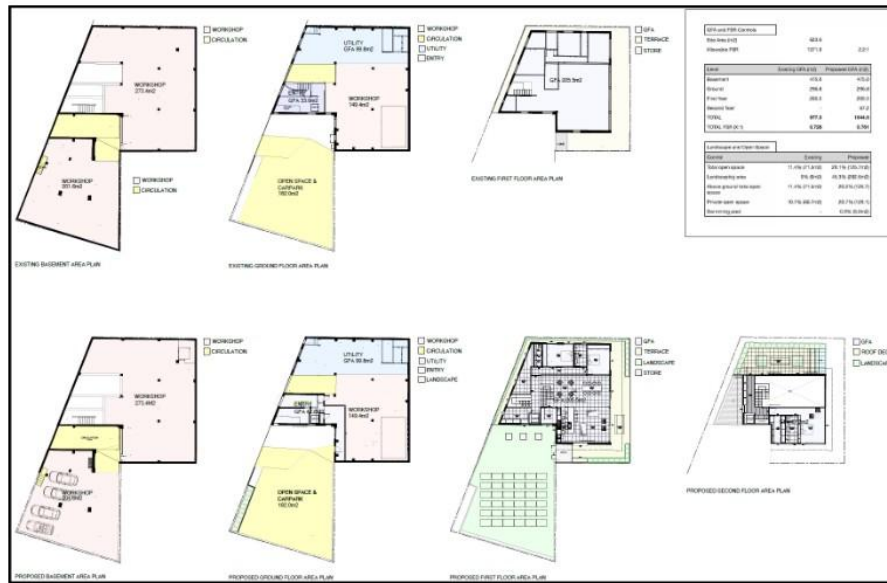


Figure 2: Excerpt of GFA Diagram

**Justification for Contravention of the Development Standard**

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

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

**5-Part test**

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

The 5-Part Test is summarised as follows:

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

1. **objectives of the development standard are achieved notwithstanding the non-compliance**
2. *underlying objective or purpose is not relevant to the development*
3. *underlying objective or purpose would be defeated or thwarted if compliance was required*

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4. *development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard*
5. *zoning of the land on which the development is proposed was unreasonable or inappropriate.*

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

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

Consistency with the Objectives of the FSR Development Standard in the LEP	
Objectives	Assessment
<i>(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,</i>	<p>The additional FSR over the maximum permissible is compatible with the character of the locality. Due to the additional second floor and part first floor, the existing GFA will increase by 67.2sqm.</p> <p>A large extent of the FSR variation is in the workshop areas, which are below ground level, which is considered to constitute a sufficient environmental planning ground. Such component does not generate any incompatibility with the character of the locality due to its existing use/nature.</p> <p>The character of the locality includes a range of single dwellings and residential flat buildings as the site and adjoining sites are within an R3 Medium Density Residential zone area and E1 Mixed Use Area. Such zoning, FSR (0.9:1) and height standard of 12m allow for 2-3 storey residential flat buildings. Furthermore, the site is within the LMR precinct, being within 400m from Randwick Town Centre. The inner area controls within the associated SEPP (Housing) 2021 allow for a height of 22m/6 storeys and FSR of 2.2:1. On this basis, the built form and associated FSR variation represent a modest form of development that is far less visually intrusive and bulky than potentially permitted.</p> <p>On this basis, it is considered that the proposed FSR variation will not generate any incompatibility with the character of the locality.</p>
<i>(b) to ensure that buildings are well articulated and respond to environmental and energy needs,</i>	<p>The proposed bulk and scale of the alterations and additions are justified on the basis that the built form will present as 2-storeys with a recessed 3rd storey, which is subservient to the FSR, bulk and scale envisaged by the 12-metre control for residential flat buildings. Furthermore, the substantial setback of the built form from the southern boundary due to the existence of the car parking area at the</p>

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*November 2025*



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1 Lingard Street, Randwick

	<p>southern end of the site ensures that there are no adverse visual bulk or shadow issues to the neighbouring residential apartments to the south.</p>
<p>(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,</p>	<p>The subject site is not in a heritage conservation area. The site is not a heritage item, with the closest heritage items being 212 and 214 Alison Road to the southeast of the site, and 115-127 Avoca Street to the west across Lingard Street. There are no adverse impacts on the heritage items due to the substantial separation distance and the modest nature of the additions.</p>
<p>(d) 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.</p>	<p>The proposed exceedance of the FSR control will not create unreasonable environmental amenity impacts in terms of visual bulk, loss of privacy, overshadowing or loss of views, and a reduction in this FSR would not create additional benefit for adjoining properties or the locality.</p> <p><u>Visual Bulk:</u> The proposed bulk and scale of the alterations and additions (and associated FSR variation) are justified on the basis that the built form will present as 2-storeys with a recessed 3rd storey, which is subservient to the FSR, bulk and scale envisaged by the 12-metre control for residential flat buildings.</p> <p><u>Overshadowing:</u> As demonstrated in the shadow diagrams submitted with this application, the neighbouring properties receive more than the required amount of sunlight to their habitable rooms and north facing windows with a minimum of 3hrs on June 21. The additional FSR causes no adverse impact of overshadowing on the neighbouring properties, with no shadow impacts on the dwelling house, sited to the north or the residential flat building, sited to the south. On this basis, the north-facing windows and private open space areas of the neighbouring properties maintain solar access, despite the FSR variation.</p> <p><u>View Loss:</u> The proposed FSR variation will not generate any impact on views from the public domain or surrounding properties. The views from surrounding neighbours are north and east facing and retained.</p> <p><u>Privacy:</u> Despite the FSR variation, there are no elements capable of generating privacy issues over the FSR limit. The substantial setback of the built form from the southern boundary due to the existence of the car parking area at the southern end of the site ensures that there are no adverse privacy issues to the neighbouring residential apartments to the south. The planters provided on the second floor northern boundary, and the second floor, being a passive</p>

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	<p>room, a bedroom, contribute to minimising any privacy impacts.</p> <p>On this basis, the elements over the FSR limit will not generate any adverse or unreasonable privacy impacts.</p>
<b>Consistency with the Objectives of the R3 Medium Density Residential Zone</b>	
<b>Objectives</b>	<b>Assessment</b>
<ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a medium density residential environment.</i></li> <li>• <i>To provide a variety of housing types within a medium density residential environment.</i></li> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> <li>• <i>To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.</i></li> <li>• <i>To protect the amenity of residents.</i></li> <li>• <i>To encourage housing affordability.</i></li> <li>• <i>To enable small-scale business uses in existing commercial buildings.</i></li> </ul>	<p>The site is zoned R3 Medium Density Residential under the provisions of Randwick LEP 2012.</p> <p>The zone objectives are of limited relevance given the uses on the site are prohibited.</p> <p>Nevertheless, the proposed FSR variation does not raise any inconsistency with the ability of the proposal to achieve the relevant objectives of the R3 Medium Density zone in that the proposal improves the residential amenity and protects the amenity of surrounding residences.</p> <p>Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the FSR variation.</p>

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

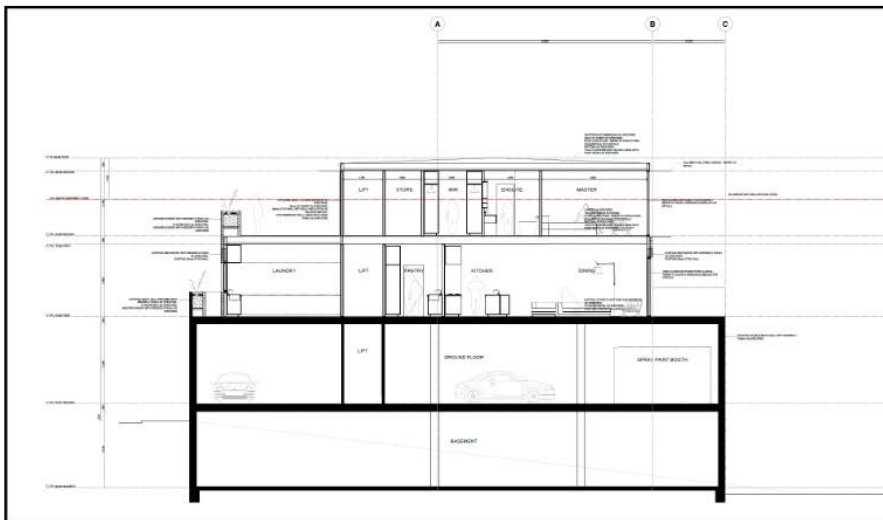
*4.6(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard*

As outlined in the ‘Guide to Varying Development Standards’ prepared by the Department of Planning and Environment in 2023, the term ‘environmental planning grounds’, while not defined in the EP&A Act or the Standard Instrument, refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act. The

scope of environmental planning grounds is wide as exemplified by the court cases (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [10]).

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

- A large extent of the FSR variation is in the workshop areas that are below ground level, which is considered to constitute a sufficient environmental planning ground. Previous excavation on the site is responsible for the FSR and Height variation for this component. Such circumstances are consistent with the findings of the judgement Merman Investments Pty Ltd v Woollahra Council 2021, whereby Commissioner O’Neill found that previous excavation, which results in a height variation, constitutes an environmental planning ground.
- The FSR variation associated with the workshop areas is due to the previously excavated basement, as shown in the long section below:



**Figure 3: Excerpt of section b which shows the location of the basement containing the workshop areas**

- Despite the FSR non-compliance, the proposal is compatible with neighbouring 2 and 3 storey buildings to the north and south of the site. The bulk and scale of the proposal is compatible with the existing and desired future character of the locality.
- The FSR variation is negligible given the site is within the LMR area and is within 400 metres from the Randwick Town Centre. A maximum FSR of 2.2:1 for residential flat buildings is what could potentially be provided on the site and within surrounding sites.

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Figure 4: Excerpt of the Indicative LMR Map

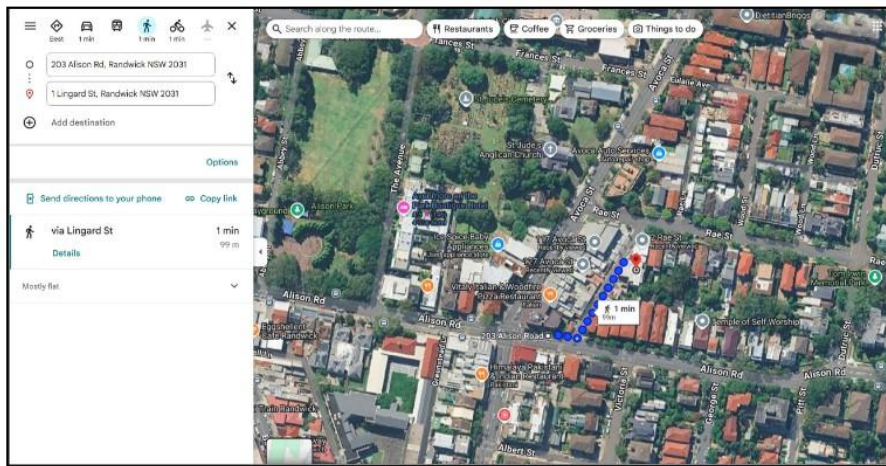


Figure 5: Excerpt of Google Map distance from subject site to town centre

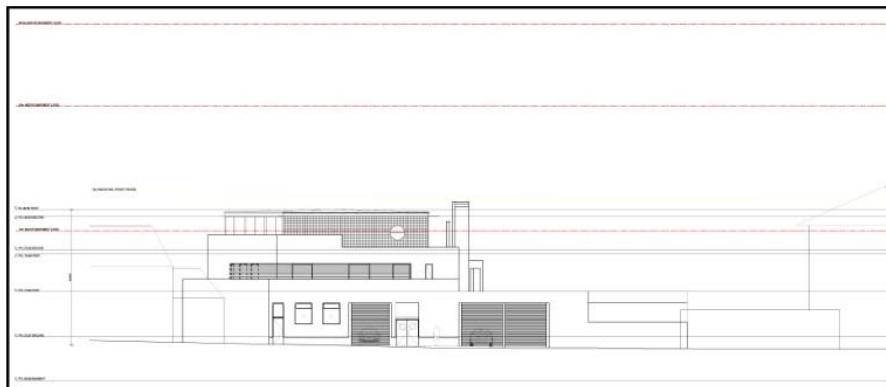


Figure 6: Excerpt of West Elevation with LMR height controls, noting the vast difference



- As demonstrated in the Shadow Diagrams submitted with this application, despite the FSR variation, the proposal will not result in unreasonable overshadowing to the surrounding properties. The east-to-west orientation of the site ensures that the north facing windows and private open space areas of the surrounding properties to the north and south remain unaffected by the portion above the FSR limit and receive a minimum of 3hrs of sunlight during June 21. The southern neighbouring units are located approximately 30m from the proposed additions which avoids any shadow impact. Such lack of impact is considered to constitute a sufficient environmental planning ground.
- The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. The proposed FSR variation will not result in the loss of views from surrounding development, as the views and outlook from primary living and kitchen areas to the north and south are maintained.
- There are no streetscape impacts associated with the FSR variation as the proposed bulk and scale of the alterations and additions are justified on the basis that the built form will present as 2-storeys with a recessed 3rd storey which is subservient to the height, bulk and scale envisaged by the 12-metre control for residential flat buildings (that being 3-4 storeys).
- The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).

The proposal will provide a suitable design and amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act and the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the FSR variation in this instance.

### **Conclusion**

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

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

- economic welfare of the community and a better environment (Section 1.3(a))
- orderly and economic use and development of land (Section 1.3(c))
- protect the environment (Section 1.3(e))



*Updated Clause 4.6 (FSR)*

*1 Lingard Street, Randwick*

- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3 (g))
- proper construction and maintenance of buildings, including the protection of the health and safety of their occupants (Section 1.3(h))

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

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at 1 Lingard Street, Randwick and is requested to be looked upon favourably by the consent authority.

**Appendix 3: Compliance Tables**

**3.1 Section D6: Neighbourhood Centres – General Controls**

Council’s controls under C2 medium density residential are not applicable in this instance due to the use of the premises being ‘mixed use’.

D6 applies to residential zones in limited circumstances. D6 forms the most appropriate controls to assess the development.

The controls in this section apply to business related development permitted in the B1 Neighbourhood Centre zone, and also in limited circumstances, within residential zones.

• **Figure 10 – RDCP, D6, page 2.**

DCP Clause	Control	Application	Compliance
<b>2</b>	<b>Site planning</b>		
<b>2.3</b>	<b>Building heights</b>		
	i) Where 12m height limit applies, development must not exceed 3 storeys (with exception of habitable roof space/partial floor).  ii) Minimum 3.3m floor to ceiling height at ground floor and 2.7 at upper floors.	12m applies.  Three stories total would result. Existing development at two storeys.  3.3 at ground floor achieved. Minimum 2.7m met for upper floors.	Yes
<b>2.4.1</b>	<b>Front setback</b>		
	i) Development on primary road, up to 9.5m in height: nil setback. ii) Development on primary road, above 9.5m in height: 2m setback. iii) Corner allotments: minimum 1.5m x 1.5m splay corner at all levels.	i) Fronts lane. ii) Fronts lane. iii) Not a corner lot.  Front setback provided from Lingard Street.  1100mm at first floor; and 2600mm-5800mm at second floor.  Front setback objectives met.  Street edge suitably maintained as existing. No unreasonable amenity impacts considered to result from the front setback.	Suitable front setback on merit.

DCP Clause	Control	Application	Compliance
		Dwelling is secondary.	
<b>2.4.2.</b>	<b>Rear setback</b>		
	<ul style="list-style-type: none"> <li>i) Rear lane access: 1m minimum setback for car parking and ancillary buildings.</li> <li>ii) Maximum 6m height and 4.5m wall height for all ancillary buildings fronting laneways.</li> <li>iii) Ancillary buildings on laneways must have a mass and scale secondary to the primary dwelling on the allotment.</li> <li>iv) Ancillary buildings upper level must be contained within the roof form as an attic storey.</li> <li>v) Where there is no rear lane access and the site adjoins land in a residential zone, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the lesser.</li> </ul>	<ul style="list-style-type: none"> <li>i) Lingard street suitable to be considered a lane.</li> <li>Existing parking access maintained.</li> <li>ii) 4.5m height for ancillary roofed carpark adjoining the principal building.</li> <li>iii) Roofed carpark would be secondary.</li> <li>iv) Upper level is suitably recessed from view. Dwelling is not ancillary.</li> <li>v) Existing building setbacks generally retained.</li> </ul>	<p>Suitable through existing retention and new setbacks for dwelling component.</p>
<b>2.4.3</b>	<b>Side setback</b>		
	<ul style="list-style-type: none"> <li>i) Adjacent to business zone: nil setback.</li> <li>ii) Dwellings in business zone: refer Part C1 or C2 of DCP.</li> <li>iii) Adjacent to non-business zone: 3m for a minimum of 60% of lot depth.</li> </ul>	<p>New dwelling components provides suitable setbacks, from 3-5 metres.</p>	<p>Suitable</p>
<b>3</b>	<b>Building design</b>		
<b>3.1</b>	<b>Façades</b>		
	<ul style="list-style-type: none"> <li>i) Where a development has two street frontages, each façade treatment must respond to the buildings in those streets.</li> <li>ii) Include shopfronts on side street frontages of corner sites to enhance the commercial potential of the space and minimise blank walls to the streetfront.</li> <li>iii) Facades should display proportions and detailing which respect the prevailing building facades across the centre (i.e. designing fine grain shop fronts, where the existing subdivision is fine grain).</li> <li>iv) Distinguish residential entries from commercial/retail entries in the case of mixed use development.</li> <li>v) Design shopfronts, including entries and windows, to reinforce any prevalent character in the centre.</li> <li>vi) All street frontage windows at ground level are to have clear glazing. Large glazed shopfronts should be avoided, with window configurations broken into discrete sections</li> </ul>	<ul style="list-style-type: none"> <li>i) single street addressing.</li> <li>ii) not a corner building.</li> <li>iii) proposed façade is suitable, being supported by the DEAP and with no objection from Council's Heritage Planner.</li> <li>iv) distinguished circulation provided. Street numbering and letterboxes to further assist.</li> <li>v) prevalent character</li> </ul>	<p>Suitable.</p>

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DCP Clause	Control	Application	Compliance
	<p>to ensure visual interest.</p> <p>vii) All facade elements must be contained within the site boundaries.</p> <p>viii) Building services, such as drainage pipes shall be coordinated and integrated with overall facade and balcony design.</p> <p>ix) Balconies to the street facade are to be recessed behind the principal building facade.</p> <p>x) Balcony balustrades should comprise a light open/glazed material and should be compatible with the style of the building.</p> <p>xi) The development of colonnades is discouraged.</p>	<p>is a rear lane. Design suitable in this regard.</p> <p>vi) no large glazed expanses proposed.</p> <p>vii) contained except steel awning.</p> <p>viii) see engineering comments.</p> <p>ix) balconies are recessed.</p> <p>x) wall and planting proposed. Suitable as it integrates with the overall design of the building.</p> <p>xi) not proposed.</p>	
<b>3.2</b>	<b>Roof Forms</b>		
	<p>i) In centres where parapet forms are prevalent, development should include parapets that reflect the rhythm, scale and detailing of existing parapets.</p> <p>ii) Provide flat roofs where these prevail across the centre, unless the site conditions justify an alternative roof form (eg. Corner sites).</p> <p>iii) Design roof forms to generate a visually interesting skyline, while minimising apparent bulk and potential for overshadowing. The style and pitch of new roofs should relate sympathetically to neighbouring buildings.</p> <p>iv) Relate roof forms to the size and scale of the building, the building elevation and the three dimensional building form.</p> <p>v) Structures such as ventilation shafts, lift over-runs and service plants, should be wholly contained within roof structures and not project above the roof line.</p>	<p>Minor roof pitch provided.</p> <p>Increased pitch would increase height breach.</p> <p>Suitable with regard to the locality.</p> <p>Roof form suitably matches that which presently exists.</p> <p>No lift overrun or services proposed appear to protrude.</p>	<p>Suitable for streetscape</p>
<b>3.3</b>	<b>Awnings</b>		
	<p>i) Provide continuous street frontage awnings to all new development.</p> <p>ii) Generally awnings should be a minimum 3 metres deep and setback a minimum 600mm from the kerb.</p> <p>iii) Design new awnings to be complementary with their neighbours and aligned with the general alignment of existing awnings in the street.</p> <p>iv) Cantilever awnings from the building must have a minimum soffit height of 3.5metres.</p> <p>v) Provide under awning lighting to improve public safety.</p>	<p>Continuous awning development not common to Lingard Street.</p> <p>Partial steel awning cover proposed to improve entry.</p>	<p>Not expected from streetscape</p>

DCP Clause	Control	Application	Compliance
	vi) Colonnades along the street edge are inappropriate. vii) Canvas blinds along the street edge may be suitable where they would assist in sun access/protection. viii) Signage on canvas blinds is inappropriate. ix) Ensure all awnings are structurally sound and safe and comply with relevant BCA requirements.		
<b>3.4</b>	<b>Colours, materials, and finishes</b>		
	i) Utilise high quality and durable materials and finishes which require minimal maintenance. ii) Combine different materials and finishes to assist building articulation and modulation. iii) The following materials are considered incompatible: large wall tiles; rough textured render and/or bagged finish; curtain walls; and highly reflective or mirror glass. iv) Avoid large expanses of any single material to facades. v) Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.	Schedule provided is suitable and supported by DEAP.  Suitable variation proposed.	Suitable
<b>3.5</b>	<b>Lighting</b>		
	i) The external lighting of buildings must integrate external light features with the architecture of the building. ii) Under awning lighting should be provided in accordance with the relevant Australian Standard. iii) Where residential development is located above or adjoins the development, provide location and design details demonstrating that light is directed away from residences. iv) Avoid floodlights or excessive lighting of buildings.	No external lighting appears to be proposed.  Suitable street lighting exists along Lingard street.	Suitable
<b>3.6</b>	<b>Signage</b>		
	i) The location, size and design of signage must integrate with the architectural detail of the building and act as a unifying element to the neighbourhood centre. ii) Signage must not: obscure important architectural features; dominate the architecture of buildings; protrude from, or stand proud of, the awnings; project above any part of the building to which it is attached; cover a large portion of the building façade. iii) Avoid fin signs, signage on canvas blinds, signage on roller shutters and projecting wall signs and large elevated solid panel business and building name signs including those fixed on parapets or roofs. iv) Ensure that signs provide clear identification of premises for residents, visitors and customers. v) All premises must display a street number.	Not proposed outside of street numbering at ground level.	Not proposed outside of street numbering at ground level.



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DCP Clause	Control	Application	Compliance
	<p>The height of these numbers should be legible but not a dominating feature, and no less than 300mm presented in a clear readable font.</p> <ul style="list-style-type: none"> <li>vi) Signage must relate to the business being carried out on the property.</li> <li>vii) Early building names (on parapets, pediments, etc) should be preserved wherever possible.</li> <li>viii) Any signage structure or sign must have regard to the impact on residential occupants in terms of illumination and visual impact.</li> </ul>		
<b>4</b>	<b>Public domain</b>		
<b>4.1</b>	<b>Active frontages</b>		
	<ul style="list-style-type: none"> <li>i) Maximise street level activity and minimise opaque or blank walls at ground level.</li> <li>ii) Minimise vehicular entrances not associated with active uses or building entries.</li> <li>iii) Security grilles or shutters may be fitted only within the shop itself behind glazing and must offer a minimum of 70% transparency.</li> <li>iv) Doors shall not encroach over the footpath when open. The use of fully operable glass walls or windows to open cafés and restaurants to the street is encouraged, where suitable for the prevailing character of existing buildings in the centre.</li> <li>v) ATMs and takeaway service counters should be recessed within a building wall to avoid negative impact on footpaths being used as service/queuing space. These areas are to be designed to avoid a hidden alcove/niche</li> </ul>	<ul style="list-style-type: none"> <li>i) frontage generally maintained. Suitable for ground floor use.</li> <li>ii) vehicular entrances for separate parts of the mixed use development. Vehicular entrances typical within Lingard Street.</li> <li>iii) Roller doors suitable.</li> <li>iv) not proposed.</li> <li>v) not proposed.</li> </ul>	Suitable
<b>4.2</b>	<b>Pedestrian friendly access and spaces</b>		
	<ul style="list-style-type: none"> <li>i) Development should aim to increase the area of public spaces and pedestrian links that are available in the business centres.</li> <li>ii) In designing such areas, consideration should be given to solar access and protection from wind and rain.</li> <li>iii) Pedestrian and vehicle accessways are to be separated and clearly distinguishable.</li> <li>iv) Pedestrian areas should minimise any changes in levels and allow wheelchair access to the shops from the car parking area and public footpaths.</li> <li>v) Consider artworks and design which integrates private development with the public domain. Eg. Window treatments, paving, sculptures and decorative elements.</li> </ul>	<ul style="list-style-type: none"> <li>i) Would not affect existing pedestrian links.</li> <li>ii) solar access remains suitable for the site and its surrounds. Awnings not typical of Lingard and so rain and wind protection are difficult to provide.</li> <li>iii) separate accesses provided.</li> <li>iv) no significant level changes proposed within the street.</li> <li>v) Suitable</li> </ul>	Suitable

DCP Clause	Control	Application	Compliance
		landscaping provided to improve public domain.	
<b>4.3</b>	<b>Vehicular access</b>		
	i) Where new development has access available off rear laneways or side streets, vehicular access must be provided from the laneway or side streets. ii) Design driveways to minimise visual impact on the street and maximise pedestrian safety. Setback any rear lane garage doors 1 metre from the laneway alignment. iii) Avoid locating accessways to driveways adjacent to the doors or windows of habitable rooms.	Access only available from Lingard Street, which is suitably characterised as a rear lane.  Suitable sightlines provided via design.  iii) not proposed.	Suitable
<b>4.4</b>	<b>Loading areas</b>		
	i) Provide for loading facilities on site wherever feasible or demonstrate that suitable alternative arrangements to minimise impact on other premises and people within the centre. ii) Service/delivery areas are to be located to minimise conflict between pedestrians/cyclists and vehicles and to minimise impact on residential amenity of neighbouring properties. iii) Where new development has access available off rear laneways or side streets, loading areas shall be located off these areas.	Access to repair shop includes car access for any potential loading. Additional basement parking provided.	Suitable
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar Access</b>		
	i) Commercial and mixed use development are not to reduce sunlight to adjacent dwellings below a minimum of 3 hours of sunlight on a portion of the windows of the habitable rooms between 8am and 4pm on 21 June. ii) Where adjacent dwellings and their open space already receive less than the standard hours of sun, new development should seek to maintain this solar access where practicable.	Provided solar diagrams indicate the development would not contribute unreasonable additional shadows compared to the existing context and suitable solar access would be maintained for the site and its surrounds.	Suitable
<b>5.2</b>	<b>Acoustic and visual privacy</b>		
	i) Developments are to be designed to minimise noise transmission by: <ul style="list-style-type: none"> <li>• Locating busy noisy areas next to each other and quieter areas next to each other;</li> <li>• Locating bedrooms away from busy roads and other noise sources;</li> <li>• Using storage or circulation areas within a dwelling to buffer noise</li> </ul>	i) Achieved. ii) Do not appear to be proposed. iii) Lingard not arterial. iv) Ground floor use's	Suitable

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DCP Clause	Control	Application	Compliance
	<p>from adjacent apartments, mechanical services or corridors/lobbies.</p> <ul style="list-style-type: none"> <li>• Avoid locating wet areas, such as toilets, laundries and kitchens, adjacent to bedrooms of adjoining dwellings.</li> </ul> <p>ii) Locate exhaust vents away from windows and open space of dwellings.</p> <p>iii) For development fronting arterial roads, provide noise mitigation measures to ensure an acceptable level of living amenity for the dwellings is maintained.</p> <p>iv) Operating hours must be submitted with the DA. Should the development require deliveries and/or operation of machinery outside of standard hours (7.30am to 5pm, Monday to Friday), an acoustic report must accompany the DA. The acoustic report must be prepared by a suitably qualified acoustic consultant.</p>	<p>operation maintained as existing and not the subject of the application.</p>	
<b>6</b>	<b>Shop top housing</b>		
	<p>i) Entries to residential apartments are to be separated from commercial entries to provide security and an identifiable address for each of the different users.</p> <p>ii) Each dwelling must be provided with private open space directly accessible from its living area, in the form of either a balcony at least 2m deep or a terrace or private courtyard at least 10 square metres in area.</p> <p>iii) Private open spaces should be: located adjacent to and accessible from the main living areas of the dwelling; located so as to maximise solar access; located to ensure privacy and away from noisy locations, where possible; and screened by vegetation or a wall to ensure privacy.</p> <p>iv) If an elevator is provided for residential use, it must not be used for retail loading or waste removal.</p> <p>v) Separate the waste storage facilities for commercial and residential components of a development.</p> <p>vi) Site services and facilities (such as letterboxes and drying yards) should be designed to enable safe and convenient access by residents; in an aesthetically sensitive way; to have regard to the amenity of adjoining developments and streetscape; to require minimal maintenance; and to be visually integrated with the development.</p>	<p>i) achieved.</p> <p>ii) achieved.</p> <p>iii) achieved.</p> <p>iv) not proposed.</p> <p>v) capable of being provided.</p> <p>vi) Location appropriate.</p>	<p>Suitable</p>
<b>6.1</b>	<b>Neighbourhood shops and business uses in Residential Zones</b>		
	<p>i) Preserve glazed shopfronts (ie. do not infill), awnings and primary wall heights at the street front.</p> <p>ii) A Noise Impact Assessment prepared by a</p>	<p>Existing rights demonstrated suitability and no</p>	<p>Yes</p>

DCP Clause	Control	Application	Compliance
	qualified acoustic consultant may be required depending on the use, scale and location of a development to demonstrate that the use can suitably operate within a residential area.	changes proposed between the operational context of the body repair shop and caretaker accommodation above.	

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**3.2 Section B7: Transport, Traffic, Parking and Access**

DCP Clause	Control	Application	Compliance (Yes/No/NA/ Conditioned)
3.	Parking & Service Delivery Requirements		
	Car parking requirements: • 1.5 spaces per 3 or more-bedroom unit	2 spaces provided.	Yes
4.	Bicycles		
	Residents: • 1 bike space per 2 units	Not identified on plans.	Conditioned for compliance.

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**Responsible officer:** Dean Lidis, Environmental Planning Officer

**File Reference:** DA/836/2025

## Draft Development Consent Conditions



<b>Folder /DA No:</b>	DA/836/2025
<b>Property:</b>	1 Lingard Street, RANDWICK NSW 2031
<b>Proposal:</b>	Alterations and additions to existing mixed-use building comprising dwelling (residential unit) on the upper level, involving construction of an additional level on top of the dwelling with a roof terrace and swimming pool, replacement of existing windows and doors, render existing brick exterior, installation of roof over existing car parking area and reconfiguration of internal spaces within existing dwelling.
<b>Recommendation:</b>	Approval

**GENERAL CONDITIONS**

## Condition

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Proposed Site Plan 2a	Ben Lance Architects	19/11/2025	26/11/2025
Parking Basement Plan 10a	Ben Lance Architects	19/11/2025	26/11/2025
Parking Area Plan 11a	Ben Lance Architects	19/11/2025	26/11/2025
Parking Area Roof Plan 12a	Ben Lance Architects	19/11/2025	26/11/2025
Basement Plan 13a	Ben Lance Architects	19/11/2025	26/11/2025
Ground Floor Plan 14a	Ben Lance Architects	19/11/2025	26/11/2025
First Floor Plan 15a	Ben Lance Architects	19/11/2025	26/11/2025
Second Floor Plan 16a	Ben Lance Architects	19/11/2025	26/11/2025
Second Floor Roof Plan 17a	Ben Lance Architects	19/11/2025	26/11/2025
Elevations 1 18a	Ben Lance Architects	19/11/2025	26/11/2025
Elevations 2 19a	Ben Lance Architects	19/11/2025	26/11/2025
Section A 20a	Ben Lance Architects	19/11/2025	26/11/2025
Section A 21a	Ben Lance Architects	19/11/2025	26/11/2025
Section C 22a	Ben Lance Architects	19/11/2025	26/11/2025
Section D 23a	Ben Lance Architects	19/11/2025	26/11/2025
Section C 24a	Ben Lance Architects	19/11/2025	26/11/2025
Proposed Site Plan 37a	Ben Lance Architects	19/11/2025	26/11/2025
Second Floor Site Plan 38a	Ben Lance Architects	19/11/2025	26/11/2025
Landscape Plan 39a	Ben Lance Architects	19/11/2025	26/11/2025



Condition		
<i><b>BASIX Certificate No.</b></i>	<i><b>Dated</b></i>	<i><b>Received by Council</b></i>
A1804558	17 July 2025	14 August 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. All relevant architectural drawings must be amended so that the RL of the *roof deck* becomes 79.35, consistent with the floor level of the internal second floor space.
- b. Elevations are to be amended to provide wayfinding signage which clearly indicates the relevant garage entrance relates to each portion of the mixed use development.
- c. A privacy screen having a height of 1.8m (measured from FFL 79.35) shall be provided to the eastern elevation of the second floor pool.
- d. A privacy screen matching the height of the existing handrail on the eastern elevation shall be provided from FFL75.98 at the first floor level.
- e. Privacy screen/s must be constructed with either:
  - Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
  - Fixed lattice/slats with individual openings not more than 30mm wide; and
  - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.

Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

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

Condition	
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**3. Consent Requirements**

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

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

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

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

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

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Condition

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5. **Section 7.12 Development Contributions**

In accordance with the applicable Randwick City Council S7.12 Development Contributions Plan, based on the development cost of \$2,357,142 the following applicable monetary levy must be paid to Council: \$23,571.42.

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

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

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

**IDC** = the indexed development cost

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

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

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

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

Condition Reason: To ensure relevant contributions are paid.

6. **Long Service Levy Payments**

Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with section

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

Condition Reason: To ensure the long service levy is paid.

7. **Security Deposits**

The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- \$2000.00 - Damage / Civil Works Security Deposit

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

	Condition
	<p>The owner/builders is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
8.	<p><b>Sydney Water</b></p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"><li>• Building plan approvals</li><li>• Connection and disconnection approvals</li><li>• Diagrams</li><li>• Trade waste approvals</li><li>• Pressure information</li><li>• Water meter installations</li><li>• Pressure boosting and pump approvals</li><li>• Change to an existing service or asset, e.g. relocating or moving an asset.</li></ul> <p>Sydney Water's Tap in™ online service is available at: <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a></p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
9.	<p><b>Building Code of Australia</b></p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
10.	<p><b>Building Code of Australia</b></p> <p>Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of</p>

	Condition
	<p>Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.</p> <p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p>
11.	<p><b>BASIX Requirements</b></p> <p>In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.</p> <p>The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.</p> <p>The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
12.	<p><b>Structural Certification</b></p> <p>A report must be obtained from a suitably qualified and experienced professional engineer/s which confirms the pool and new floor addition is suitable and can be safely constructed and maintained for the life of the development.</p> <p>That report is to be to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure the subject site/development and adjoining land is adequately supported and protected during any works.</p>
13.	<p><b>Building Code of Australia – Swimming Pools</b></p> <p>Swimming Pools and Spa Pools are to be designed and installed in accordance with the requirements of the <i>Building Code of Australia</i> and be provided with a child-resistant barrier in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).</p> <p>Details of compliance are to be provided in the Construction Certificate.</p> <p>Temporary pool safety fencing is also required to be provided to swimming pools pending the completion of all building work and swimming pools must not be filled until a fencing inspection has been carried out and approved by the Principal Certifier.</p> <p><i>Note: This development consent does not approve the design and location of swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.</i></p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.</p>

Condition	
14.	<p><b>Swimming Pool Safety</b> Swimming pools are to be designed, installed and operated in accordance with the following general requirements:</p> <ul style="list-style-type: none"><li>• Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation.</li><li>• Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance.</li><li>• Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems.</li><li>• Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises.</li></ul> <p>Condition Reason: To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area.</p>
15.	<p><b>Stormwater Drainage</b></p> <p>Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the Principal Certifier. A copy of the plans shall be forwarded to Council, if Council is not the Principal Certifier.</p> <p>The drainage plans must demonstrate compliance with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing and Drainage - Stormwater Drainage) and the relevant conditions of this development approval.</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>
16.	<p><b>Stormwater Drainage</b></p> <p>Stormwater runoff from the (redeveloped portion) site shall be discharged:</p> <ol style="list-style-type: none"><li>To the kerb and gutter along the site frontage by gravity (preferably without the use of a charged system)</li></ol> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>

**BEFORE BUILDING WORK COMMENCES**

Condition	
17.	<p><b>Building Certification &amp; Associated Requirements</b> The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <ol style="list-style-type: none"><li>a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</li></ol>



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

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

18. **Dilapidation Reports**

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

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

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

19. **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

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Condition

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- 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.

20. **Sediment and Erosion Control Plan**

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

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

21. **Construction Noise & Vibration Management Plan**

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

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

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

A copy of the Construction Noise & Vibration Management Plan and

Condition	
	<p>associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.</p> <p>(e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
22.	<p><b>Public Liability</b></p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>
23.	<p><b>Public Utilities</b></p> <p>A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
24.	<p><b>Public Utilities</b></p> <p>The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

### DURING BUILDING WORK

Condition	
25.	<p><b>Site Signage</b></p> <p>It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:</p> <ol style="list-style-type: none"> <li>a) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>b) showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and</li> <li>c) stating that unauthorised entry to the work site is prohibited.</li> </ol> <p>The sign must be—</p> <ol style="list-style-type: none"> <li>a) maintained while the building work is being carried out, and</li> </ol>

Condition

- b) removed when the work has been completed.

This section does not apply in relation to—

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

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

26. **Restriction on Working Hours**

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

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

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

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

27. **Noise & Vibration**

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

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

28. **Construction Site Management**

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

Temporary site fences must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust

	Condition
	<p>control); heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.</p> <p>Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.</p> <p>All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> <li>• <i>Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</i></li> <li>• <i>A separate Local Approval application must be submitted to and approved by Council's Health, Building &amp; Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</i></li> </ul> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
29.	<p><b>Overhead Hoardings</b></p> <p>An overhead ('B' class) type hoarding is required to be provided to protect the public (unless otherwise approved by Council) if:</p> <ul style="list-style-type: none"> <li>• goods or materials are to be hoisted (i.e. via a crane or hoist) over a pedestrian footway</li> <li>• building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment</li> <li>• it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or adjoining land</li> <li>• as may otherwise be required by SafeWork NSW, Council or the Principal Certifier.</li> </ul> <p>Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.</p>
30.	<p><b>Public Safety &amp; Site Management</b></p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ol style="list-style-type: none"> <li>a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.</li> <li>b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.</li> <li>c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.</li> <li>d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.</li> <li>e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of</li> </ol>



	Condition
	Council.
	f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines.
	g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
	h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
	i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
	j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

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

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

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

Condition reason: To minimise and prevent damage to public infrastructure.

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

*Dust control measures and practices may include:*

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

Condition	
	<ul style="list-style-type: none"> <li>Landscaping and revegetation of disturbed areas.</li> </ul> <p>Condition Reason: To require details of measures that will minimise impacts to the public, and the surrounding environment, during site works and construction.</p>
33.	<p><b>Excavations and Support of Adjoining Land</b> In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
34.	<p><b>Complaints Register</b> A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.</p> <p>Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigated, actioned and responded to and documented in a Complaints Register accordingly.</p> <p>Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.</p> <p>Condition reason: To ensure any complaints are documented and recorded, and to protect the amenity of the surrounding area and residents.</p>
35.	<p><b>Building Encroachments</b> There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place with the exception of the <i>Bent Gal Steel Awning</i>.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
36.	<p><b>Survey Report</b> A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:</p> <ul style="list-style-type: none"> <li>prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,</li> <li>prior to construction (pouring of concrete) of new floor levels,</li> <li>prior to issuing an Occupation Certificate, and</li> <li>as otherwise may be required by the Principal Certifier.</li> </ul> <p>The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.</p> <p>Condition Reason: To ensure compliance with approved plans.</p>
37.	<p><b>Road / Asset Opening Permit</b> A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in</p>

Condition
<p>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 Councils website at</p> <p><a href="https://www.randwick.nsw.gov.au/services/roads/road-and-footpath-excavations">https://www.randwick.nsw.gov.au/services/roads/road-and-footpath-excavations</a> or ring the call centre on 1300 722 542</p> <p>Condition Reason: To ensure protection and/or repair of Council's Road &amp; footpath assets and ensure public safety.</p>

### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
<p>38. <b>Occupation Certificate Requirements</b> An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
<p>39. <b>Post-construction Dilapidation Report</b> A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.</p> <p>The dilapidation report shall detail whether:</p> <ul style="list-style-type: none"><li>(a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and</li><li>(b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent.</li></ul> <p>The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.</p> <p>Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>
<p>40. <b>Fire Safety Certificate</b> A single and complete <i>Fire Safety Certificate</i>, certifying the installation and</p>

	Condition
	<p>operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire and Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
41.	<p><b>Structural Certification</b></p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p>
42.	<p><b>Sydney Water Certification</b></p> <p>A <i>section 73 Compliance Certificate</i>, under the <i>Sydney Water Act 1994</i> must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> &gt; <i>Building and developing</i> &gt; <i>Developing your Land</i> &gt; <i>Water Servicing Coordinator</i> or telephone 13 20 92.</p> <p>Please make early contact with the Water Servicing Coordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.</p> <p>The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
43.	<p><b>BASIX Requirements</b></p> <p>In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
44.	<p><b>Street and/or Sub-Address Numbering</b></p> <p>Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.</p> <p>If this application results in an additional lot, dwelling or unit, an application must be</p>

Condition
<p>submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.</p> <p><i>Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.</i></p> <p>Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.</p>
<p>45. <b>Swimming Pool Safety</b> Swimming Pools [and Spa Pools] are to be provided with a child-resistant barrier (i.e. fence, in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).</p> <p>Condition reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
<p>46. <b>Swimming Pool Safety</b> A 'warning notice' must be installed in a prominent position in the immediate vicinity of a Swimming Pool [or Spa Pool], in accordance with the provisions of the <i>Swimming Pools Regulation 2018</i>, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.</p> <p>Condition reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
<p>47. <b>Swimming Pool Safety</b> The owner of the premises must 'register' their Swimming Pool [or Spa Pool] on the NSW Swimming Pool Register, in accordance with the <i>Swimming Pools Act 1992</i>. The Swimming Pool Register is administered by the NSW Government and registration on the Swimming Pool Register may be made on-line via their website <a href="http://www.swimmingpoolregister.nsw.gov.au">www.swimmingpoolregister.nsw.gov.au</a>.</p> <p>Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifier and Council accordingly.</p> <p>Condition reason: To ensure registration of the swimming pool/spa in accordance with relevant legislation.</p>
<p>48. <b>Council's Infrastructure, Vehicular Crossings, street verge</b> The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb &amp; gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.</p> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
<p>49. <b>Council's Infrastructure, Vehicular Crossings, street verge</b> All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge</p>



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Condition

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Crossings Policy” and the following requirements:

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

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

50. **Stormwater Drainage**

The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with Australian Standard 3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and the conditions of this development approval. The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the Principal Certifier.

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

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**OCCUPATION AND ONGOING USE**


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Condition

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51. **Use of parking spaces and signage**

The car spaces within the development are to be used as follows:

- The basement 'workshop' parking is for the exclusive use of the vehicle body repair workshop's staff and customers;
- The ground floor parking area is for the exclusive use of the occupants/residents of the dwelling and their guests.

Signage differentiating these two uses is to be maintained for the life of the development.

Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.

52. **Fire Safety Statement**

A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with

Condition
<p>the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i>, and in accordance with the <i>Fire Safety Schedule</i> for the building.</p> <p>The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i>.</p> <p>A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire &amp; Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
<p>53. <b>External Lighting</b> External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>

### DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition
<p>54. <b>Demolition Work</b> A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <ol style="list-style-type: none"> <li>a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.</li> <li>b) The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> <li>• The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor</li> <li>• Details of hazardous materials in the building (including materials containing asbestos)</li> <li>• Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)</li> <li>• Measures and processes to be implemented to ensure the health &amp; safety of workers and community</li> <li>• Measures to be implemented to minimise any airborne dust and asbestos</li> <li>• Methods and location of disposal of any hazardous materials (including asbestos)</li> <li>• Other measures to be implemented to ensure public health and safety</li> <li>• Date the demolition works will commence/finish.</li> </ul> </li> </ol> <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p>

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Condition

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

*Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m<sup>2</sup> of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.*

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

Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.

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**DURING DEMOLITION WORK**


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Condition

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55.

**Demolition Work**

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

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

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),
- Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations
- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",
- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works.

Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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

Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.

## Development Application Report No. D81/25

**Subject:** 47 Kyogle Street, Maroubra (DA/1154/2025)

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### Executive Summary

<b>Proposal:</b>	Strata subdivision of approved dual occupancy (attached).
<b>Ward:</b>	Central Ward
<b>Applicant:</b>	Vaughan Milligan Development Consulting Pty Ltd
<b>Owner:</b>	Jaygo Pty Ltd
<b>Cost of works:</b>	Nil.
<b>Reason for referral:</b>	The development contravenes the development standard for lot size by more than 10%

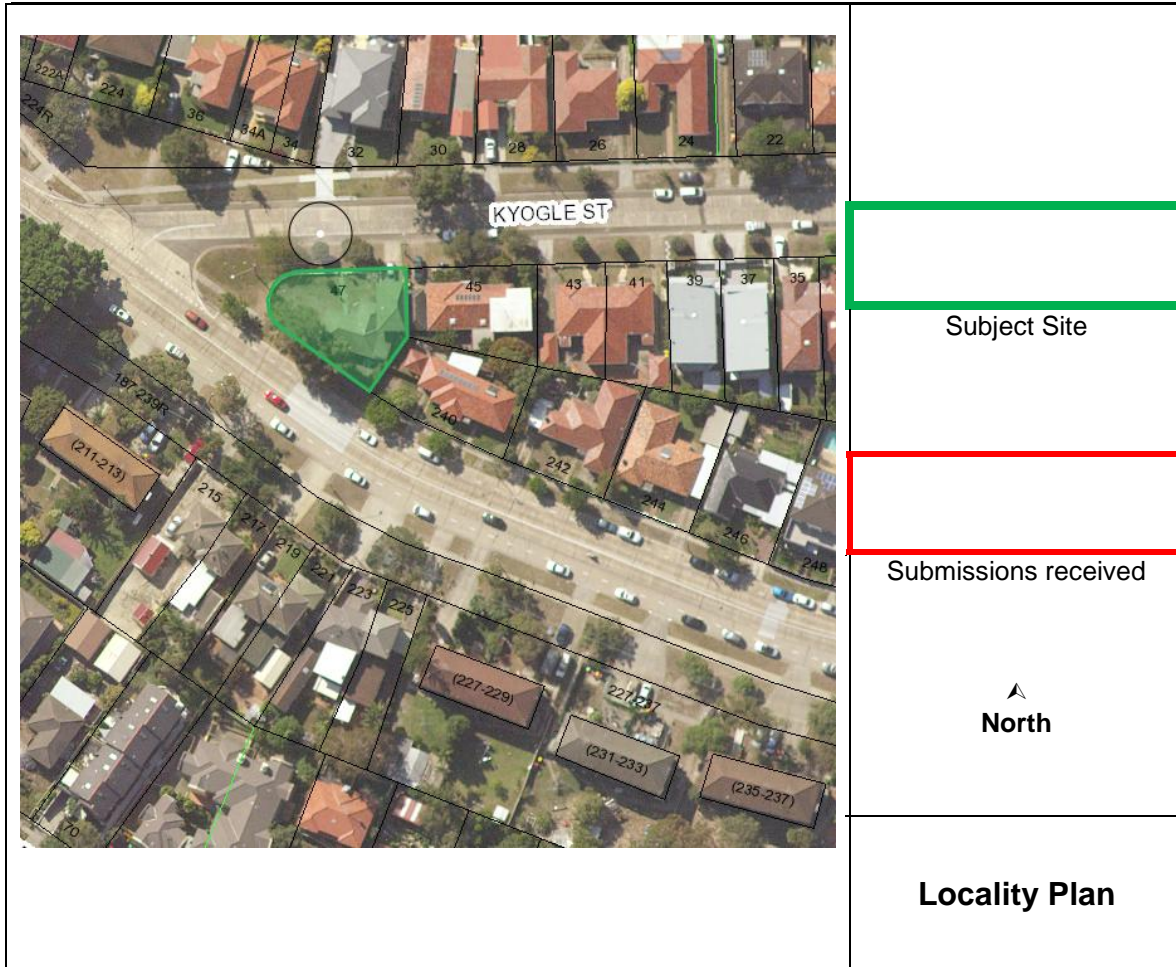
### Recommendation

- A. That the RLPP is satisfied that the applicant's written requests to vary the development standard relating to Minimum Lot Size in Clause 4.1A of Randwick Local Environmental Plan 2012 have demonstrated that:
- i. Compliance with the relevant development standard is unnecessary and unreasonable in the circumstances of the case; and
  - ii. There are sufficient environmental planning grounds to justify the contravention of the relevant development standard.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/1154/2025 for Strata subdivision of approved dual occupancy (attached), at No. 47 Kyogle Street, Maroubra, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  [RLPP Dev Consent Conditions \(dwellings dual occ\) - DA/1154/2025 - 47 Kyogle Street, MAROUBRA NSW 2035 - DEV - Randwick City Council](#)

D81/25



**1. Executive summary**

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

The proposal seeks development consent for the Strata subdivision of approved dual occupancy (attached).

The works to construct the dual occupancy (under DA/555/2023) have not commenced on site.

Council has endorsed an interim policy position at its Ordinary Meeting on 23 September 2025 (Report No. CP24/25).

This policy supports the subdivision of approved dual occupancies on lots between 450m<sup>2</sup> and 550m<sup>2</sup>, provided that the development was approved prior to 01 September 2023 and the site is not within a heritage area.

The previous application for the built form was lodged (DA/555/2023) on 21 August 2023, it was approved on 27 May 2024. A discussion was held with Council’s Manager of Development Assessment, who agreed that the intent of the resolution is to support this subject Strata Subdivision, therefore the resolution has been applied. It is also noted that the site is not located within a Heritage Conservation Area.

The key issues associated with the proposal relate to the Clause 4.6 for Lot Size Variation, the DCP lot frontage controls and objectives, as well as consideration of the Council Resolution.



## 2. Site Description and Locality

The subject site is legally described as Lot 3274 in DP 557612 and is commonly known as No. 47 Kyogle Street, Maroubra. The site is an irregular shaped corner allotment located on the southern side of Kyogle Street and the northern side of Fitzgerald Avenue.

The site features a 36.39m frontage to Kyogle Street (including the arc splay), a 21.195m frontage to Fitzgerald Avenue, and a total area of 455.9m<sup>2</sup>. The site is mostly flat.

The subject site currently contains a 2-storey dwelling house with attached garage and timber deck (refer to Figures 7 to 10). The site comprises a substantial amount of grassed turf area situated on the western side of the dwelling house and a few interspersed trees.

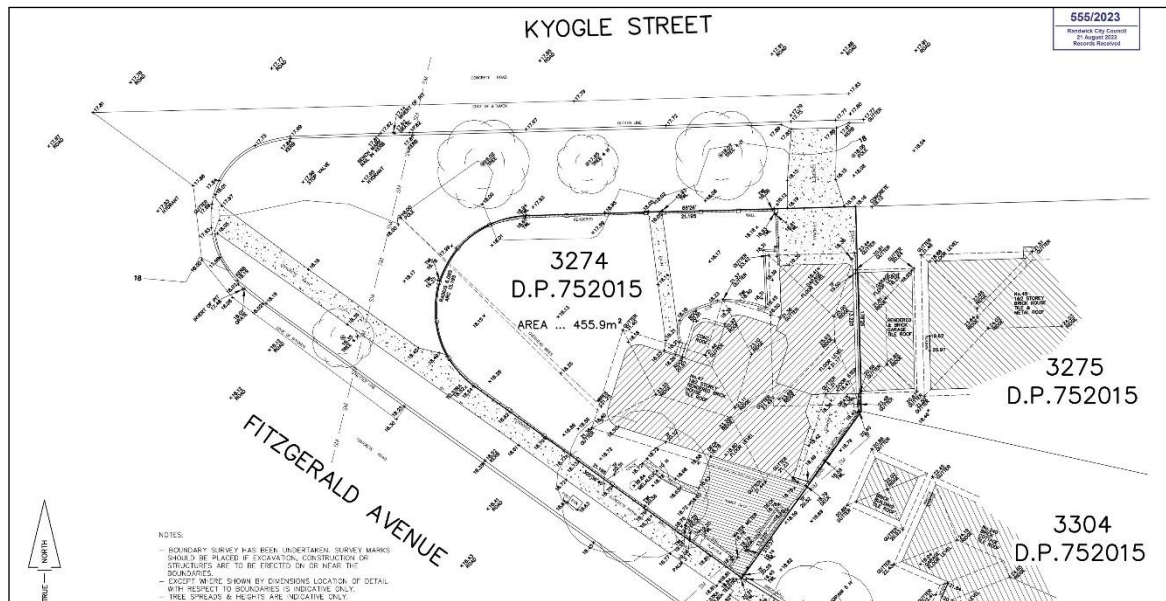


Figure 1: Survey Plan



Figure 2: View of existing dwelling house from arc splay (western side of site) – intersection of Fitzgerald Avenue and Kyogle Street (Source: Google Maps, April 2023)

D81/25



**Figure 3** Northern view of existing dwelling house from Kyogle Street (Source: Google Maps, April 2023)



**Figure 4** Southern view of existing dwelling house from Fitzgerald Avenue (Source: Google Maps, April 2023)

The surrounding area is characterised by low residential development on wide tree-lined streets. The development pattern is predominantly made up of single to 2-storey buildings (such as dwelling houses and semi-detached dwellings). The streetscape features primarily traditional architectural styles – simple built forms with gabled or hipped tiled roofs, and exposed and rendered brick facades commonly occur.

### 3. Relevant history

DA/555/2023 was lodged on 21 August 2023 and approved on 27 May 2024 for Demolition of existing structures and construction of attached dual occupancy and associated site works.

### 4. Proposal

The proposal seeks development consent for Strata subdivision of approved dual occupancy (attached).



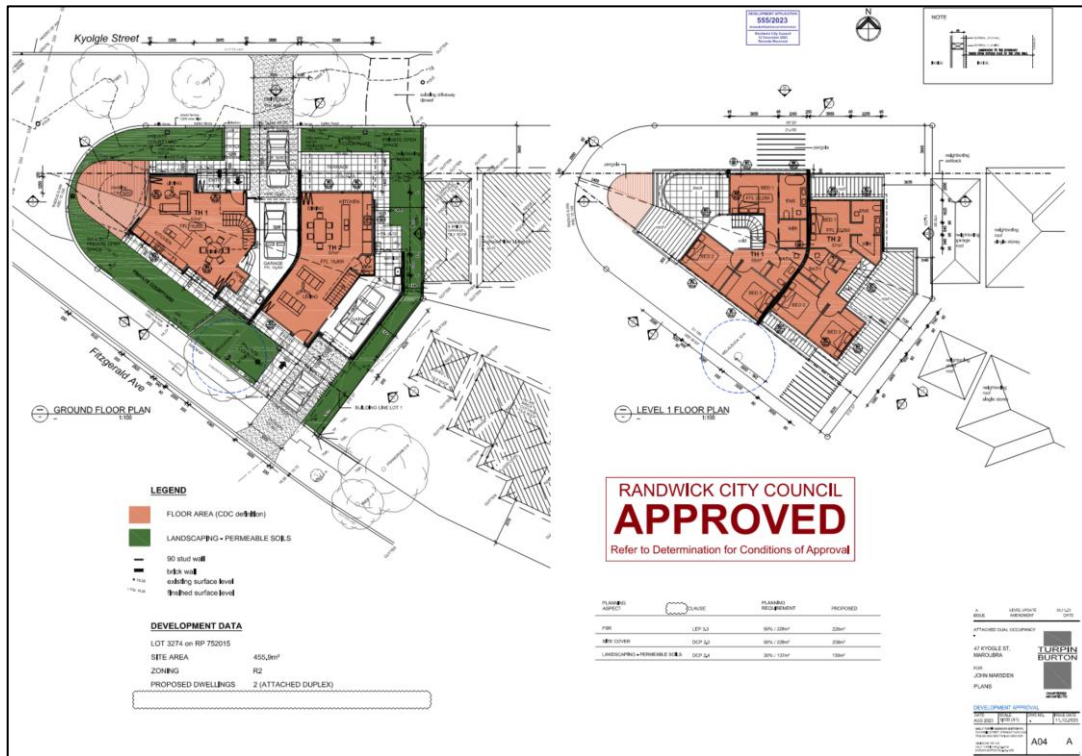


Figure 1: Approved Ground Floor and First Floor Plans for 47 Kyogle Street (Source: DA/555/2023)

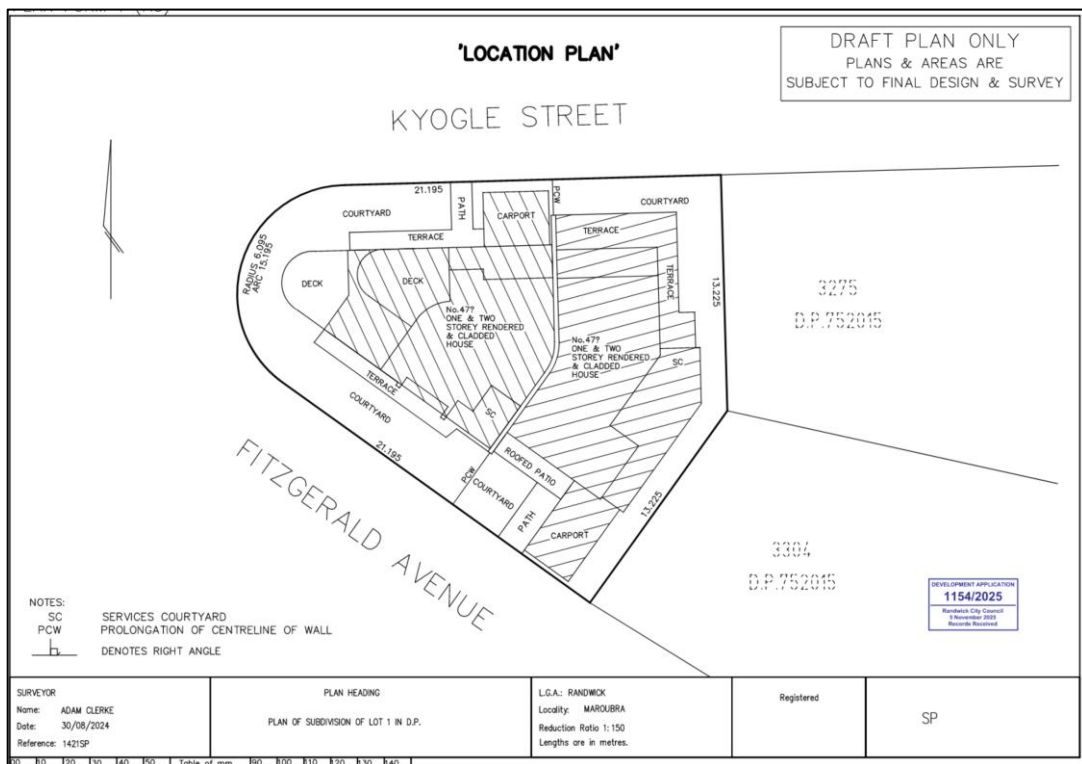


Figure 2: Location Plan of proposal (Source: Applicant)

D81/25

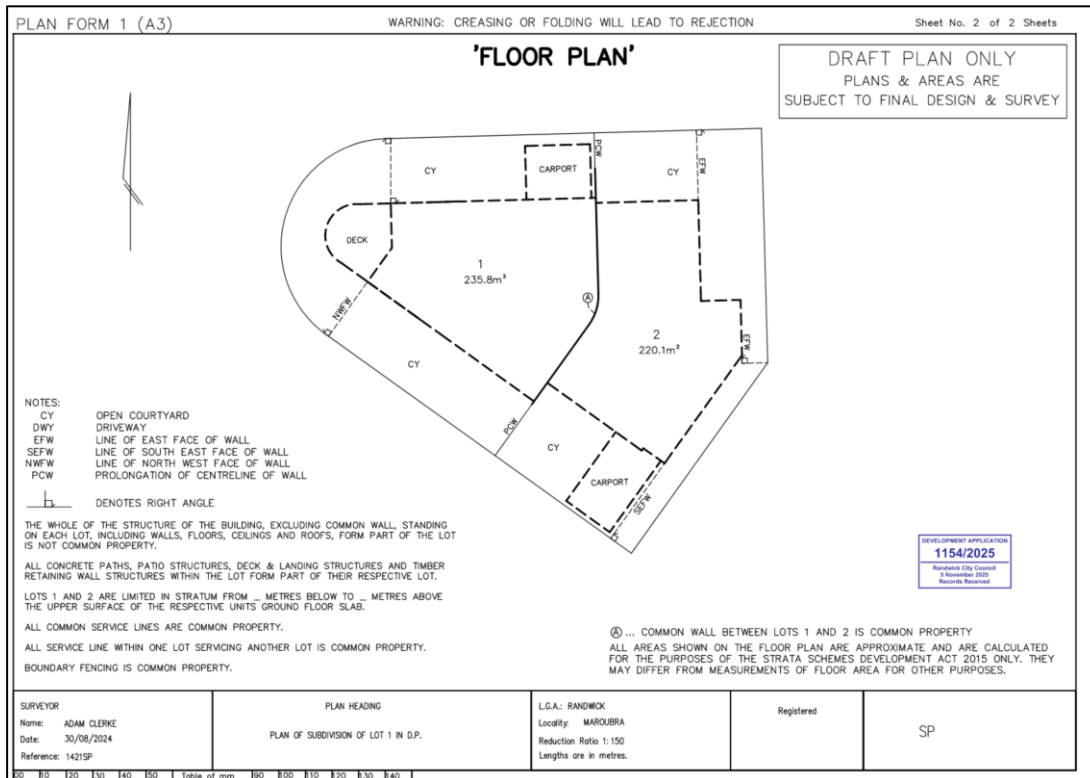


Figure 3: Proposed Subdivision Plan (Source: Applicant)

**Context and setting**

Surrounding development is predominantly residential including low density development on smaller to larger sized lots interspersed with ornamental gardens and tree lined streets.

**Privacy, Views, Overshadowing, and Noise**

The proposal involves a strata subdivision of an approved attached dual occupancy development, and does not involve any physical building work, hence there will be negligible impact on the existing privacy, views, overshadowing or noise impacts

**Trees and Vegetation**

The existing trees and vegetation over the site including the landscaped gardens allocated to each of the dwellings in the dual occupancy will not be impacted by the strata subdivision.

**Access and Traffic**

Each dwelling in the dual occupancy will have its own parking including 2 separate carports with individual driveway access to the street.

**Stormwater and Sewerage**

The strata subdivision will have no impact or result in increased loads on the existing approved stormwater drainage and sewerage connections for the site.

**Contamination**

The site is located in an area that historically has been used for residential development, and not uses that may otherwise create land contamination.

**Cut and Fill**

The proposal does not involve any physical works involving excavation or filling.

## Construction Management

No construction works are involved or required for the strata subdivision.

## Ongoing Waste Management

Each dwelling will have its own waste management including Council issued waste and recycling bins, which are placed on the street for the weekly and fortnightly waste collection from council.

## 5. Notification

In accordance with Councils Community Engagement Strategy, no notification is required for Strata Subdivision.

### 5.1. Randwick Local Environmental Plan 2012 (LEP)

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

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity complies with the objectives of the zone as outlined in the Clause 4.6 Variation request.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.1A: Lot Size (min)	275m <sup>2</sup>	Lot 1 = 235.8m <sup>2</sup> Lot 2 = 220.1m <sup>2</sup>	No.

#### 5.1.1. Clause 4.6 - Exceptions to development standards

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

## 6. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.1A: Lot Size (min)	275m <sup>2</sup>	Lot 1 = 235.8m <sup>2</sup> Lot 2 = 220.1m <sup>2</sup>	Lot 1 = 39.2 m <sup>2</sup> Lot 2 = 54.9m <sup>2</sup>	14.25% 19.96%

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

### 6.1. Exception to the Minimum Lot Size development standard (Cl 4.1A)

The applicant’s written justification for the departure from the Minimum Lot Size standard is contained in Appendix 2.

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

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

The objectives of the Minimum Lot Size standard are set out in Clause 4.1A (1) of RLEP 2012.

The applicant has addressed each of the objectives as follows:

- (a) *to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.*

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

*The proposed subdivision of the approved dual occupancy via a Strata Plan is considered to successfully achieve this objective as the proposal will ensure that the land is not fragmented by the proposed strata subdivision nor result in any additional dwelling entitlements.*

*The proposal will maintain the approved density for the land with the approved dual occupancy to fit comfortably within the surrounding streetscape and maintain the approved site coverage, landscaped area and approved built form as anticipated by Council in its determination of DA/555/2023.*

*The strata subdivision of the land will not result in any discernible physical change to the land and the approved building will present the same visual appearance and contribution to the surrounding streetscape, together with consistent appearance with the approved development when viewed from the neighbouring properties.*

*The approved amenities for the site and car parking provision as detailed within the original determination will remain unchanged.*

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

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

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

*The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:*

- *The proposed strata subdivision, which as discussed introduces an appropriate and compatible lot size within the locality, promotes the orderly & economic use of the land (cl 1.3(c)).*
- *The proposed lot configuration will allow for the development to proceed in accordance with the anticipated outcome determined in Council's assessment of DA/555/2023, further promoting the orderly and economic use of the land*
- *The proposed strata subdivision layout supports the approved new dual occupancy development for the site which will be consistent with the general pattern of development in the immediate locality.*
- *The proposed subdivision of land will result in allotments which whilst marginally less than the minimum allotment size in the locality, will however provide the opportunity for additional housing, which by the nature of the size of the site will provide a more affordable housing choice which can encompass both rental options and private ownership opportunity which is consistent with the object of the act to promote the delivery and maintenance of affordable housing (cl1.3(d)).*

*The above environmental planning grounds are not general propositions. They are unique circumstance to the proposed development, particularly as the strata subdivision will support the approved development detailed in the DA/555/2023 which confirmed that the site will accommodate a dual occupancy development is compatible with the surrounding development and provides appropriate residential amenity for the future occupants.*

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

Council has endorsed an interim policy position at its Ordinary Meeting on 23 September 2025 (Report No. CP24/25).

This policy supports the subdivision of approved dual occupancies on lots between 450m<sup>2</sup> and 550m<sup>2</sup>, provided that the development was approved prior to 01 September 2023 and the site is not within a heritage area. It is noted the proposed built form is existing and not located from within a conservation area and will generally align with the interim policy adopted by Council in support of the proposed variation.

## **Conclusion**

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

## 7. Development control plans and policies

### 7.1. Randwick Comprehensive DCP 2013

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

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

The relevant provisions of the DCP are addressed in the key issues section.

## 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 key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.  The proposed development is consistent with the dominant character in the locality.  The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in	The application was not notified.

Section 4.15 'Matters for Consideration'	Comments
accordance with the EP&A Act or EP&A Regulation	
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**

Section 2.2 of the Low Density Residential DCP (Part C1) contains the lot frontage width controls and objectives for dual occupancy development.

Section 2.2ii) states that the parent lot should be 15m.

The objectives are:

- *To ensure land subdivision respects the predominant existing or planned future subdivision and development pattern of the locality*
- *To ensure land subdivision creates allotments that have adequate width and configuration, to deliver suitable building design and to maintain the amenity of the neighbouring properties*
- *To ensure dwellings have suitable scale and built form proportional to their allotment to complement the streetscape*
- *To ensure dual occupancy dwellings do not result in unreasonable impacts on the surrounding properties in terms of visual amenity, solar access and privacy.*

The site is a corner allotment with frontage widths of >15m. The built form was already considered and approved under DA/555/2023, the approved lot frontages of each dwelling are greater than 7.5m. Furthermore, this is a strata subdivision and does not alter the cadastral pattern of subdivision.

The proposal is consistent with the objectives listed above.

**9. Conclusion**

That the application to Strata subdivide an approved dual occupancy (attached) be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R2 zone in that:
  - It provides for the housing needs of the community
  - There are not built form works
  - The proposal will not worsen housing affordability.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape



**Appendix 1: Internal referral comments:****1.1. Development Engineer**

*There are no objections to the strata subdivision subject to the comments and conditions provided in this report*

*The dual occupancy development was approved under DA/555/2023. Neither a construction nor occupation certificate has been issued for the development.*

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

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**APPENDIX:**

**RLEP 2012 - CLAUSE 4.6 SUBMISSION**

**MINIMUM SUBDIVISION LOT SIZE FOR STRATA PLAN SCHEMES IN ZONE R2**

**Prepared October 2025  
(as revised November 2025)**

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*47 Kyogle Street, Randwick*

Vaughan Milligan Development Consulting Pty Ltd

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**WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF  
RANDWICK LOCAL ENVIRONMENTAL PLAN 2012**

**47 KYOGLE STREET, MAROUBRA**

**FOR STRATA SUBDIVISION OF AN APPROVED DUAL OCCUPANCY**

**VARIATION OF A DEVELOPMENT STANDARD REGARDING THE MINIMUM SUBDIVISION LOT SIZE  
FOR STRATA PLAN SCHEMES IN ZONE R2 AS DETAILED IN CLAUSE 4.1A OF THE RANDWICK LOCAL  
ENVIRONMENTAL PLAN 2012**

**For:** Strata Subdivision of an approved dual occupancy development  
**At:** 47 Kyogle Street, Maroubra  
**Owner:** John Marsden  
**Applicant:** John Marsden c/- Vaughan Milligan Development Consulting Pty Ltd

## **1. Introduction**

### **1.1 Report purpose**

Development consent is being sought for strata subdivision of an approved attached dual occupancy development, at 47 Kyogle Street, Maroubra. The development in terms of lot size is non-compliant with a lot size and as such, a variation is sought under Clause 4.6.

The proposed dual occupancy development within the site was approved in accordance with Development Consent DA/555/2023, under Notice of Determination dated 27 May 2024.

The development under DA/555/2023 has not commenced.

Council resolved at its meeting of 23 September 2025 to support an amendment to the LEP to enable Torrens or Strata subdivision of approved dual occupancies in the R2 zone on lots between 450m<sup>2</sup> and 550m<sup>2</sup> provided the approval was granted before 1 September 2023 and site is not within a Heritage Conservation Area.

In this instance, the subject site is not within a Heritage Conservation Area and has a site area of between 450 and 550m<sup>2</sup> (455.9m<sup>2</sup>).

The approval however was issued on 27 May 2024 and therefore this proposal would not be subject to Council's resolution to amend the LEP to support similar developments approved prior to 1 September 2023. Accordingly, this application relies on the Written Request under clause 4.6 of the Randwick Local Environmental Plan 2012 for a variation to the minimum subdivision lot size.

This development standard variation request has been prepared under Clause 4.6 of the Randwick Local Environmental Plan 2012 to justify the departure from the development standards within Clause 4.1A - Minimum subdivision lot size for strata plan schemes in Zone R2 as detailed within the RLEP 2012.

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47 Kyogle Street, Maroubra

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Clause 4.6 aims to provide an appropriate degree of flexibility in applying certain development standards. It is a facilitative clause which enables the consent authority to grant consent to a development although it contravenes a development standard. This is subject to the consent authority being satisfied that there are proper planning grounds to justify the contravention.

This report contends that in the unique circumstances of this development being on this particular site, the appropriate Development Standard applicable to the site should be less than the minimum lot size specified. Once applied, it is considered that the Development Standard for lot size proposed under the development allows for the orderly and economic use of the land in an appropriate manner.

This submission has been prepared to address the provisions within Section 35B of the *Environmental Planning and Assessment Regulation 2021*, and as discussed within this Written Request, will demonstrate the grounds on which the proposal considers the matters set out in Clause 4.6(3)(a) and (b) of the RLEP 2012.

## 1.2 Variation Request Summary

This Clause 4.6 Variation Request demonstrates:

- That compliance with the relevant development standard is unreasonable or unnecessary in the circumstances as the development achieves the objectives of the development standard in Clause 4.1A of the LEP, notwithstanding the non-compliance;
- That there are sufficient environmental planning grounds to justify contravening the development standard;
- That this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3);
- That the proposed development is consistent with the objectives of the Development Standard and the objectives for development within the zone;
- Notwithstanding the non-compliance, the development as proposed will remain compatible with the local low density character of the area and will contribute to the provision of a stock of affordable housing in the LGA;
- The positive outcomes of the departure from the standard outweigh the negatives which would result from strict adherence to the standard as set out under Clause 4.1A.

## 2.0 Planning Context

### 2.1 Authority to vary a Development Standard

In September 2023, the NSW Government published amendments to Clause 4.6 of the Standard Instrument which change the operation of the clause across all local environmental plans, including the Randwick LEP. The changes came into force on 1 November 2023.

The principal change is the omission of subclauses 4.6(3)-(5) and (7) in the Standard Instrument Principal Local Environmental Plan.

The following changes have been made as a result of this:

- Clause 4.6(3) was amended such that the requirement to 'consider' a written request has been changed with an express requirement that the consent authority 'be satisfied that the applicant has demonstrated' that compliance with the development standard is unreasonable or unnecessary.

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- Clause 4.6(4)(a)(ii) was amended such that the requirement that the consent authority must be satisfied that the proposed development in the public interest has been removed.
- Clause 4.6(4)(b) & 5 amended such that the requirement for concurrence from the Planning Secretary has been removed.

The objectives of clause 4.6 of the LEP, as amended, seek to recognise that in the particular circumstances of this case strict application of development standards may be unreasonable or unnecessary. The clause provides objectives and a means by which a variation to the development standard can be achieved as outlined below:

*Clause 4.6 Exception to development standard*

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

**Note—**

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

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

**Note—**

When this Plan was made it did not include all of these zones.

- (7) *(Repealed)*



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

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

## **2.2 Is Clause 4.1A of the LEP a development standard?**

(The definition of “development standard” in clause 1.4 of the Environmental Planning and Assessment Act 1979 (“EP&A Act”) means standards fixed in relation to an aspect of a development and includes:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*

In accordance with (a) above, the standards within Clause 4.1A of RLEP applies a minimum subdivision lot size provision for strata plan schemes in Zone R2. The proposed variation relates to the area of the land for an approved dual occupancy which is located within a zone R2 Low Density Residential and is intended to be subdivided via a Strata Plan. It follows that clause 4.1A of RLEP 2012 is a development standard.

Clause 4.6 of the LEP therefore provides authority to vary the standard Clause 4.1A of RLEP.

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### 3.0 Purpose of Clause 4.6

Clause 4.6 of the Randwick Local Environmental Plan 2012 permits departures from development standards in certain circumstances. It is necessary to consider if compliance with the development standard is consistent with the aims of the LEP and whether compliance with the development standard hinders the attainment of the Objects of the Environmental Planning and Assessment Act 1979 (EP&A Act) which are:

- a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- c) *to promote the orderly and economic use and development of land,*
- d) *to promote the delivery and maintenance of affordable housing,*
- e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- g) *to promote good design and amenity of the built environment,*
- h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The aims and objectives of Randwick Local Environmental Plan 2012, Clause 4.6 are as follows:

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Under Clause 4.6(3), and (4) of the RLEP 2012, consent for a development that contravenes a development standard must not be granted unless the consent authority is satisfied that:

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

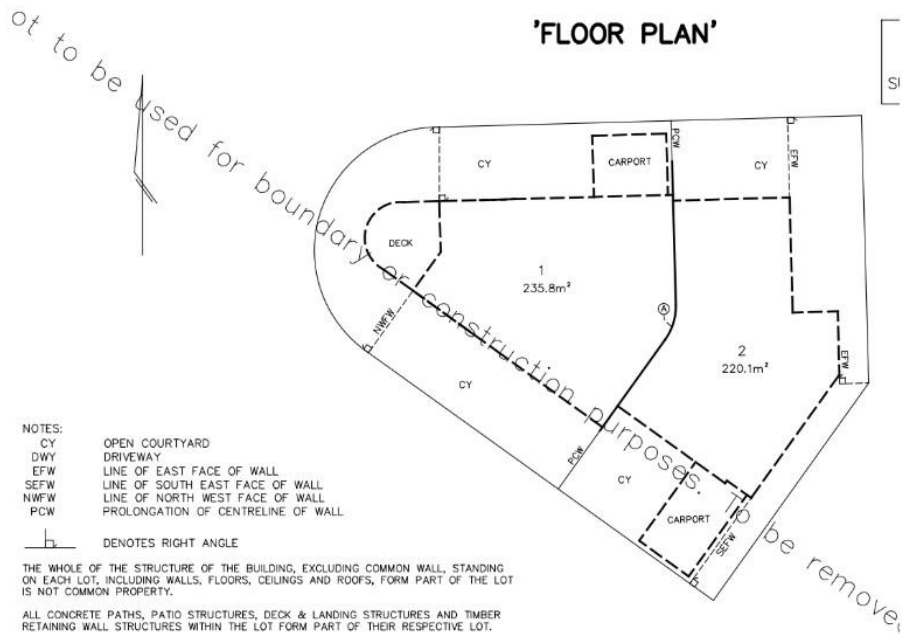
The proposed development does not comply with the minimum subdivision lot size development standard for strata title subdivision pursuant to Clause 4.1A of RLEP which refers to the minimum lot size of 275m<sup>2</sup> in this area of Maroubra.

Proposed Lot 1 will present a lot size of 235.8m<sup>2</sup>, which is a variation to the standard of 14.2% or 39.2m<sup>2</sup>.

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Proposed Lot 2 will present a lot size of 220.1m<sup>2</sup>, which is a variation to the standard of 20% or 54.9m<sup>2</sup>.

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**Figure 1: Proposed strata subdivision of attached dual occupancy**

Strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard. The relevant arguments are set out later in this written request.

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

Clause 4.6(4) is administrative and requires the consent authority to keep a record of its assessment of the clause variation.

Clause 4.6(6) relates to subdivision and restricts the size of allotments to be subdivided in certain zones.

The site is zoned R2 Low Density Residential and is therefore not subject to the provisions of Clause 4.6(6).

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Clause 4.6(8) is relevant however the proposed subdivision does not contravene the provisions outlined in the clause.

These matters, along with case law judgements from the NSW Land and Environment Court, are addressed over.

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#### 4.0 The Nature and Extent of the Variation

- 4.1 This request seeks a variation to the minimum subdivision lot size standard for strata plan schemes in Zone R2. The subject site is located within the Zone R2 Low Density Zone and the proposal intends to subdivide the lot via a Strata Plan.
- 4.2 Clause 4.1A of RLEP refers to a minimum subdivision lot size of 275m<sup>2</sup> in this area of Maroubra.
- 4.3 Proposed Lot 1 will present a lot size of 235.8m<sup>2</sup>, which is a variation to the standard of 14.2% or 39.2m<sup>2</sup>.
- 4.4 Proposed Lot 2 will present a lot size of 220.1m<sup>2</sup>, which is a variation to the standard of 20% or 54.9m<sup>2</sup>.

#### 5.0 Relevant Case Law

Several key NSW Land and Environment Court (NSW LEC) judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions from these cases are summarised below and the relevant cases referenced.

##### Wehbe v Pittwater [2007] NSW LEC 827

This case is the pinnacle decision on how to establish that compliance with a development standard is unreasonable or unnecessary. The decision of Justice Preston in *Wehbe v Randwick* [2007] NSW LEC 827 (**Wehbe**), expanded on the findings in *Winten v North Sydney Council*, and identified the now well known, five (5) ways in which the applicant might establish that compliance with a development standard is unreasonable or unnecessary. It was not suggested that a request must satisfy all five ways, or that they were the only ways that a development standard could be shown to be unreasonable or unnecessary.

The five (5) ways outlined in **Wehbe** include:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Way**).
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Way**).
- The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Way**).
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Way**).
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Way**).

Other key cases and their findings

Since the **Wehbe** decision and five (5) ways were established, case law over the last few years has refined and given greater clarification around the writing and assessing of a Clause 4.6 variation request. These cases include:



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- Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC 90 (**Four2five**);
- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSW LEC 7 (**Micaul**);
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 (**Initial Action**);
- Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSW LEC 191 (**Rebel Neutral Bay**);
- and
- Thompson Health Care Pty Limited v Ku-ring-gai Council [2020] NSW LEC 1363 (**Thompson Health Care**).

In summary these cases have helped to establish that:

- It is necessary to demonstrate compliance with the Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP;
- It is necessary to provide clear argument as to why adherence to the standard is unreasonable and unnecessary specific to the proposal and the aspect of the proposal which is non-compliant;
- It is necessary that the argument is founded on environmental planning grounds and does not necessarily need to facilitate a neutral or better outcome;
- It is necessary to provide adequate justification and assessment of the ability of the development to achieve the objectives of the standard and zone, notwithstanding the non-compliance;
- It is satisfactory that the consent authority need only be indirectly satisfied that the written request adequately addresses the non-compliance;
- Satisfying all these ensure compliance with the requirement that all three elements of Clause 4.6 must be met.

Each of these matters have informed the preparation of this request and the opinion that the variation of the minimum subdivision lot size for strata plan schemes in Zone R2 as detailed in Clause 4.1A of the Randwick Local Environmental Plan 2012 is justified in the case of the proposed development.

#### **5.1 Balancing development standards and environmental planning outcomes**

Clause 4.6 provides an opportunity for the efficient administration of planning law through the ability to balance technical development standard compliance with good environmental planning outcomes that can be achieved through varying a development standard. As noted in the ongoing use of Clause 4.6, and the case law mentioned above, it is possible to meet planning objectives and promote positive, rather than negative, environmental planning outcomes when departing from a development standard when balancing planning law with the merits of a site, the needs of owners, and the broader context and setting.

The departure supported by this Clause 4.6 variation request highlights how, in this particular instance, the positive outcomes specific to this site and locality outweigh any negatives perceived to result from departures to development standards.

Importantly, support for the proposed departure will not set a precedent as the uniqueness of this site and the proposal demonstrate that while strict adherence to the set development standard is desirable generally, there is the opportunity to achieve a better environmental planning outcome on this site, through the development as proposed.

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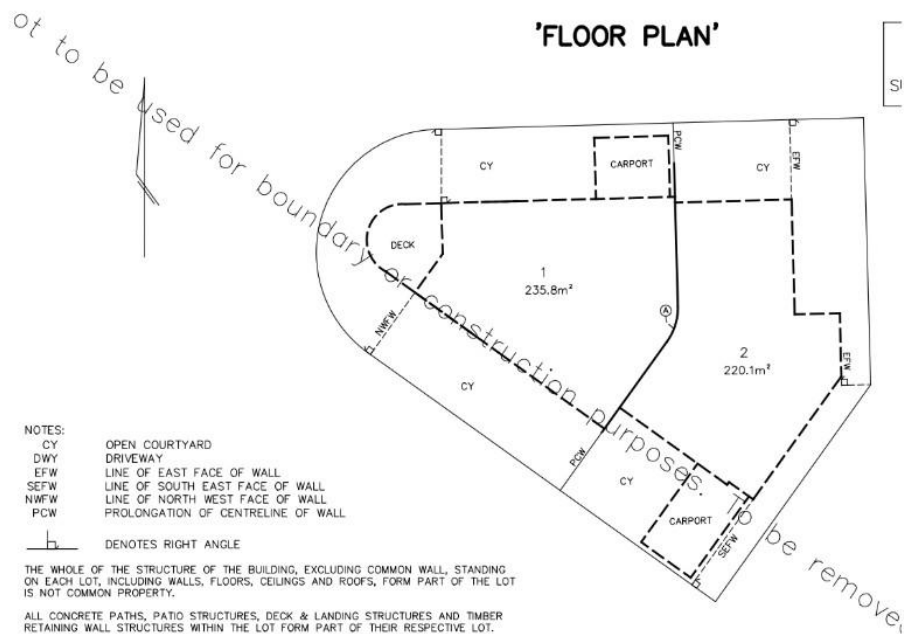
**5.2 Proposed Development**

The application seeks approval for the strata subdivision of an approved attached dual occupancy at No 47 Kyoale Street, Maroubra.

As detailed within the accompanying strata subdivision plans prepared by Adam Clerke Surveyor, the proposal seeks consent for the Strata Title subdivision of an approved attached dual occupancy development.

The submitted draft plan nominates Lot 1 has an area of 235.8m<sup>2</sup> and Lot 2 has a total area of 220.1m<sup>2</sup> (see Figure below) along with proposed private open space allocations. The draft plan is consistent with the approved plans for the site.

As the proposal only seeks development consent for strata title subdivision of the approved dual occupancy into two lots there is no change to the approved building height, floor space ratio, private open space areas or landscaping provision.



**Fig 1: Draft Strata Subdivision Plan**

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### 5.3 Context and setting

Surrounding development is predominantly residential including low density development on smaller to larger sized lots interspersed with ornamental gardens and tree lined streets.

### 5.4 Supporting Assessment

#### 5.4.1 Privacy, Views, Overshadowing, and Noise

The proposal involves a strata subdivision of an approved attached dual occupancy development, and does not involve any physical building work, hence there will be negligible impact on the existing privacy, views, overshadowing or noise impacts

#### 5.4.2 Trees and Vegetation

The existing trees and vegetation over the site including the landscaped gardens allocated to each of the dwellings in the dual occupancy will not be impacted by the strata subdivision.

#### 5.4.3 Access and Traffic

Each dwelling in the dual occupancy will have its own parking including 2 separate carports with individual driveway access to the street.

#### 5.4.4 Stormwater and Sewerage

The strata subdivision will have no impact or result in increased loads on the existing approved stormwater drainage and sewerage connections for the site.

#### 5.4.5 Contamination

The site is located in an area that historically has been used for residential development, and not use that may otherwise create land contamination.

#### 5.4.6 Cut and Fill

The proposal does not involve any physical works involving excavation or filling.

#### 5.4.7 Construction Management

No construction works are involved or required for the strata subdivision.

#### 5.4.8 Ongoing Waste Management

Each dwelling in the dual occupancy will have its own waste management including Council issued waste and recycling bins which are placed on the street for the weekly and fortnightly waste collection from council.

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## 6.0 Clause 4.6 Variation Assessment

### 6.1 Environmental Planning Instrument details

6.1.1 *What is the name of the environmental planning instrument that applies to the land?*

Randwick Local Environmental Plan 2012

6.1.2 *What is the zoning of the land?*

The site is zoned under Randwick Local Environmental Plan 2012 as Zone R2 Low Density Residential.

6.1.3 *What are the objectives of the zone?*

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

6.1.3 *What is the development standard being varied?*

### 4.1A Minimum subdivision lot size for strata plan schemes in Zone R2

*(3) The size of any lot resulting from a subdivision of land to which this clause applies for a strata plan scheme (other than any lot comprising common property within the meaning of the Strata Schemes (Freehold Development) Act 1973 or Strata Schemes (Leasehold Development) Act 1986) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

*Note.*

*Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that strata subdivision of a building in certain circumstances is specified complying development.*

***(4) Despite subclause (3), if the subdivision is of a lot on which there is a dual occupancy—  
(a) the size of each lot resulting from the subdivision must not be less than 275m<sup>2</sup>, and  
(b) 1 dwelling must be situated on each lot resulting from the subdivision.***

*(\* emphasis added)*

In this instance, clause 4.1A (4) is the relevant control as a dual occupancy has been approved for the site (DA/555/2023) and the application seeks to provide for a strata subdivision and therefore the development standard to be considered is a minimum requirement for each lot to be not less than 275m<sup>2</sup>.

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6.1.4 *Under what clause is the development standard listed in the environmental planning instrument?*

Clause 4.1A(4).

6.1.5 *What are the objectives of the development standard?*

**4.1A Minimum subdivision lot size for strata plan schemes in Zone R2**

*(1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.*

The proposed subdivision of the approved dual occupancy via a Strata Plan is considered to successfully achieve this objective as the proposal will ensure that the land is not fragmented by the proposed strata subdivision nor result in any additional dwelling entitlements.

The proposal will maintain the approved density for the land with the approved dual occupancy to fit comfortably within the surrounding streetscape and maintain the approved site coverage, landscaped area and approved built form as anticipated by Council in its determination of DA/555/2023.

The strata subdivision of the land will not result in any discernible physical change to the land and the approved building will present the same visual appearance and contribution to the surrounding streetscape, together with consistent appearance with the approved development when viewed from the neighbouring properties.

The approved amenities for the site and car parking provision as detailed within the original determination will remain unchanged.

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

275 sqm

6.1.7 *What is proposed numeric value of the development standard in your development application?*

Lot 1 = 235.8m<sup>2</sup> & Lot 2 = 220.1m<sup>2</sup>

6.1.8 *What is the percentage variation (between your proposal and the environmental planning instrument)?*

Variation from the development standard for Lot 1 being 14.2% (39.2m<sup>2</sup>) and the variation on Lot 2 is 20% (54.9m<sup>2</sup>)

6.1.9 *Does Clause 4.6 include a provision that would prohibit the application for variation of the development standard?*

No.



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## 6.2 Clause 4.6 Assessment

The following section addresses the provisions of Clause 4.6 of the Randwick Local Environmental Plan 2012 together with principles established in the NSW Land and Environment Court Case Law outlined above.

### 6.2.1 Clause 4.6(3)(a)

*Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case (and is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case)?*

In order to demonstrate that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, the First Way established in **Wehbe** is considered and addressed as follows.

#### **First Way**

*The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).*

The underlying objective or purpose of the standard in Clause 4.1A is still achieved despite the development because land is not being fragmented through the creation of individual lots within an approved dual occupancy.

The creation of separate titles within the approved building does not alter the existing pattern of subdivision in the area. The proposal does not seek additional dwelling entitlements, with the site to contain only the approved dual occupancy development, once constructed.

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### 6.2.2 Clause 4.6(3)(b)

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

Strict compliance with the standard would hinder the attainment of the objects specified in Section 1.3 of the EPA Act, which are as follows:

- a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- c) *to promote the orderly and economic use and development of land,*
- d) *to promote the delivery and maintenance of affordable housing,*
- e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- g) *to promote good design and amenity of the built environment,*
- h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- j) *to provide increased opportunity for community participation in environmental planning and assessment.*

Strict compliance with Clause 4.1A of the Randwick Local Environmental Plan 2012 would hinder the attainment of the objectives of the Act as it would impact on the delivery of a stock of affordable housing within the community and would not promote an orderly and economic use and development of the land.

There are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposed strata subdivision, which as discussed introduces an appropriate and compatible lot size within the locality, promotes the orderly & economic use of the land (cl 1.3(c)).
- The proposed lot configuration will allow for the development to proceed in accordance with the anticipated outcome determined in Council's assessment of DA/555/2023, further promoting the orderly and economic use of the land
- The proposed strata subdivision layout supports the approved new dual occupancy development for the site which will be consistent with the general pattern of development in the immediate locality.
- The proposed subdivision of land will result in allotments which whilst marginally less than the minimum allotment size in the locality, will however provide the opportunity for additional housing,

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which by the nature of the size of the site will provide a more affordable housing choice which can encompass both rental options and private ownership opportunity which is consistent with the object of the act to promote the delivery and maintenance of affordable housing (cl1.3(d)).

The above environmental planning grounds are not general propositions. They are unique circumstance to the proposed development, particularly as the strata subdivision will support the approved development detailed in the DA/555/2023 which confirmed that the site will accommodate a dual occupancy development is compatible with the surrounding development and provides appropriate residential amenity for the future occupants.

**4.2.3 Clause 4.6(4)(a)(ii)**

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

The proposed development will be in the public interest because the land is not being fragmented by then proposed Strata Title subdivision of the lot and the low density pattern of subdivision in the area is not being undermined. An assessment of consistency with the objectives of the Zone is provided below:

<b>R2 Low Density Residential</b>	
<b>Objective</b>	<b>Assessment</b>
To provide for the housing needs of the community within a low-density residential environment.	Allowing the strata subdivision below lot sizes will permit the creation of separate titles which will provide for separate sale and hence contribute to the local housing needs within the community, without impacting on or changing the low-density character of the area.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Not relevant.
To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.	The proposed strata title subdivision of the approved dual occupancy will not include any physical works, ensuring that it will not result in any impacts to the existing streetscape or desired future character of the area
To protect the amenity of residents.	The proposed strata title subdivision of the approved dual occupancy will not involve any

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	physical works, ensuring that it will not result in any impacts to the amenity of residents of neighbouring properties.
To encourage housing affordability.	The proposed strata title subdivision of the approved dual occupancy encourages housing affordability.
To enable small-scale business uses in existing commercial buildings	Not relevant

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The proposed development is consistent with the objectives of the standard and objectives for development within the zone. Accordingly, there can be no quantifiable or perceived public benefit in maintaining the standard.

In summary:

- The non-compliance will not raise any matter of State or Regional Significance;
- The proposed development is not considered to be consistent with the objectives of the zone as detailed above.

**7.0 Conclusion**

In summary, this Clause 4.6 variation request to 4.1A Minimum subdivision lot size for strata plan schemes in Zone R2 detailed in Randwick Local Environmental Plan 2012.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the proposal complies with the First Way of the Five Part Test outlined in Wehbe, in that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

In considering the balance between technical development standard compliance or support for this request to vary the development standard, it is submitted that, in the proposed form, this unique development site can achieve the following positive environmental planning outcome/s:

- The separation of titles through the proposed strata subdivision will contribute to the stock of affordable housing and assist in addressing the housing needs within the community; and
- The dual occupancy has been approved and the strata subdivision does not alter the existing pattern of subdivision within the area; and
- The proposed strata title subdivision will not fragment the land or result in any additional dwelling entitlements
- The proposed strata subdivision will have no adverse impact on or alter the low density character of the residential area; and
- The proposed strata subdivision will have no adverse environmental impacts and will not detract from the subject and surrounding residential amenity.
- The proposal will not result in additional housing on the site.

Importantly, it is considered that a precedent will not be set by supporting the proposed departure as this proposal is responding to the uniqueness of this site. Also, while strict adherence to the set

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development standard is desirable generally, on the merits of this specific case there is the opportunity to achieve a better environmental planning outcome on this site, through the development as proposed.

On the basis of the above, the Randwick City Council is able to support the proposed variation to the development standard under the provisions of Clause 4.6 of the LEP and favorably endorse the Development Application as lodged.

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

**File Reference:** DA/1154/2025

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**Development Consent Conditions  
(Strata Subdivision)**



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<b>Folder /DA No:</b>	DA/1154/2025
<b>Property:</b>	47 Kyogle Street, MAROUBRA NSW 2035
<b>Proposal:</b>	Strata subdivision of approved dual occupancy (attached).
<b>Recommendation:</b>	Approval.

**GENERAL CONDITIONS**

Condition

1. **Approved plans and documentation**

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Location Plan – Plan of Subdivision (Ref:1421SP)	Adam Clerke	30 August 2024	5 November 2025
Floor Plan – Plan of Subdivision (Ref: 1421SP)	Adam Clerke	30 August 2024	5 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.

**STRATA SUBDIVISION  
BEFORE ISSUE OF A STRATA CERTIFICATE**

Condition

2. **Strata Plans**

All floors, external walls and ceilings depicted in the proposed strata plan must correspond to the building as constructed.

Condition Reason: To ensure the strata plans are consistent with the building as constructed.

3. **Strata Plans**

All floors, external walls and ceilings depicted in the proposed strata plan must correspond to those depicted in the approved building plans for the site under DA/555/2023 and the issued construction certificate.

Condition Reason: To ensure the strata plans are consistent with the approved building plans for the site.

4. **Strata Plans**

Condition	
	<p>Prior to endorsement of the strata plans, all facilities required under previous development approvals (such as parking spaces, terraces and courtyards) must be provided in accordance with the relevant requirements.</p> <p>Condition Reason: To ensure the strata plans are consistent with the approved building plans for the site.</p>
5.	<p><b>Strata Plans</b></p> <p>The applicant shall create suitable right of carriageway and easements as required, however generally all services lines (including stormwater) over any strata lot serving another strata lot are to be common property.</p> <p>Condition Reason: To ensure all necessary easements are created.</p>
6.	<p><b>Occupation Certificate</b></p> <p>All conditions of DA/555/2023 must be satisfied and a final occupation certificate issued for the development prior to the issuing of a subdivision certificate.</p> <p>Condition Reason: To ensure the dwellings are completed and fully serviced prior to registration of the subdivision plans.</p>
7.	<p><b>Plan of Survey</b></p> <p>The applicant shall provide Council with a copy of the base plan of survey (e.g. Plan of Redefinition) for the property prior to issuing of a strata certificate.</p> <p>Condition Reason: To ensure Council receives a copy of the underlying base "Plan of Survey".</p>
8.	<p><b>Sydney Water</b></p> <p>A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).</p> <p>Go to <a href="http://sydneywater.com.au/section73">sydneywater.com.au/section73</a> or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.</p> <p>The Section 73 Certificate must be submitted to the Registered Certifier and the Council prior to issuing of a Strata Certificate.</p> <p><b>NOTE:</b> The S73 compliance certificate issued under the construction approval (DA/533/2023) will not be sufficient to satisfy this condition. A new Section 73 certificate must be obtained that refers to the strata subdivision of the property approved under this consent.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements with regards to any upgrade/adjustment of Sydney Water's assets.</p>
9.	<p><b>Public Utilities</b></p> <p>The applicant must meet the full cost for telecommunication companies, Jemena, Ausgrid and Sydney Water to adjust/relocate their services as required. This may include (but not necessarily be limited to) relocating/installing new service lines and providing new meters. The applicant must make the necessary arrangements with the service authorities.</p> <p>Should compliance with this condition require works that are not exempt development, the necessary approvals must be obtained prior to any works being</p>

	Condition
	<p>undertaken.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are adhered to.</p>
10.	<p><b>Road / Asset Opening Permit</b></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 subdivision certificate.</p> <p>For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.</p> <p>Condition Reason: To ensure protection and/or repair of Council's Road &amp; footpath assets and ensure public safety.</p>
11.	<p><b>Restriction and Positive Covenant</b></p> <p>A computer folio search and/or receipt from NSW Land Registry Services demonstrating registration of the "restriction on the use of land" and "positive covenant" (as required under condition 45 of DA/533/2023) must be provided to Council or the registered certifier prior to the issuing of a strata certificate.</p> <p>If the restriction and positive covenant have <b>not</b> yet been registered, a "restriction on the use of land" and "positive covenant" (under section 88B of the Conveyancing Act 1919) shall be placed on the title of the strata lots, in conjunction with the registration of the proposed plan of strata subdivision for this property, to ensure that the onsite detention system is maintained and that no works which could affect the design function of the detention system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.</p> <p>Notes:</p> <ol style="list-style-type: none"><li>The "restriction as to user" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.</li><li>The works as executed drainage plan and hydraulic certification (demonstrating compliance with development consent requirements and conditions) must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.</li></ol> <p>Condition Reason: To ensure stormwater run-off is effectively managed for the life of the development.</p>
12.	<p><b>Street and/or Sub-Address Numbering</b></p> <p>Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.</p> <p>An application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of a subdivision certificate.</p> <p>Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted</p>

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Condition

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as endorsed, approved by, or to the satisfaction of Council.

Condition Reason: To ensure street numbering is provided in accordance with Councils requirements.

13. **Strata Certificate**

A formal application for a strata certificate is required to be submitted to and approved by the Council or registered certifier and all conditions of this development consent are required to be satisfied prior to the release of the strata subdivision plans.

Condition Reason: To ensure the completed strata subdivision complies with the conditions of consent.