

Randwick Local Planning Panel (Public) Meeting

Thursday 12 March 2026



RANDWICK LOCAL PLANNING PANEL (PUBLIC) MEETING

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting will be held online via Microsoft Teams on Thursday, 12 March 2026 at 1:00 PM

Declarations of Pecuniary and Non-Pecuniary Interests

Development Application Reports

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Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D7/26

Subject: 25-27 Church Street, Randwick (DA/1205/2025)

Executive Summary

Proposal:	Demolition of existing buildings/structures, tree removal and construction of an 8-storey residential flat building comprising 27 apartments (2 x 2-bedroom and 25 x 3-bedroom) and 2 levels of basement parking containing 35 car parking spaces, associated ancillary and landscaping works.
Ward:	North Ward
Applicant:	Antipodean Building Group
Owner:	Mrs A Koprivic, Ms H Andriadis, Ms L Andriadis and Ms C George
Cost of works:	\$14,711,565.00
Reason for referral:	The development contravenes the development standard for number of storeys by more than 10%; the development is subject to Chapter 4 of the Housing SEPP as the building is 3 or more storeys and contains at least 4 dwellings; and forty-seven (47) unique submissions by way of objection were received.

Recommendation

That the RLPP refuses consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/1205/2025 for Demolition of existing buildings/structures, tree removal and construction of an 8-storey residential flat building comprising 27 apartments (2 x 2-bedroom and 25 x 3-bedroom) and 2 levels of basement parking containing 35 car parking spaces, associated ancillary and landscaping works, at No. 25-27 Church Street, Randwick, for the following reasons:

1. Pursuant to Section 19(2)(e) and (f) of the SEPP (Housing) 2021, the proposed development fails to provide compliant number of off-street parking spaces and a Clause 4.6 variation request was not submitted to accompany the application.
2. Pursuant to Clause 4.6 of RLEP 2012 and Section 175(2) of the SEPP (Housing) 2021, the proposed variation to the number of storeys is not supported as the applicant has failed to 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 20(3)(b) of the SEPP (Housing) 2021, the proposal has not demonstrated compatibility with the desired future character of the precinct.
4. Pursuant to Section 147 of the SEPP (Housing) 2021, the proposed development was not supported by the Randwick Design Excellence Advisory Panel in its current form. In addition, the proposed development fails to demonstrate consistency with the following design criteria of the ADG:
 - 1B Local Character and Context;
 - 1C Precincts and Individual Sites;
 - 3E Deep Soil Zones;
 - 3F Visual Privacy;
 - 4A Solar and Daylight Access;
 - 4E Private Open Space;
 - 4K Apartment Mix;
 - 4L Ground Floor Apartments; and
 - 4O Landscape Design.

5. Pursuant to Clause 1.2 'Aims of the Plan' and the objectives of the R3 zone in Randwick Local Environmental Plan (RLEP) 2012, the consent authority is not satisfied that 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.
6. Pursuant to Clause 5.10 'Heritage Conservation' of the RLEP 2012, the proposal has failed to demonstrate a satisfactory outcome in accordance with the requirements and objectives.
7. Pursuant to Clause 6.2 'Earthworks' of the RLEP 2012, the proposed development results in excessive change to natural ground levels including excavation exceeding 1m and the Applicant has failed to sufficiently demonstrate that the existing geotechnical information is adequate for the proposed works.
8. Pursuant to Clause 6.10 'Essential Services' of RLEP 2012, the Applicant has failed to sufficiently demonstrate that adequate arrangements have been made for electricity supply to the proposed development.
9. Pursuant to Clause 6.11 'Design Excellence' of RLEP 2012, the proposed development does not exhibit design excellence.
10. 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 B6: Recycling and Waste Management
 - Part B7: Car and Bicycle Parking
 - Part C2 of the RDCP 2013
 - Section 2.2.1: Landscaped Open Space
 - Section 3.3: Building Depth
 - Section 3.4.1: Front Setback
 - Section 4.1: Building Façade
 - Section 4.2: Roof design
 - Section 4.4: External Wall Height
 - Section 4.12: Earthworks
 - Section 5.1: Solar Access and Overshadowing
 - Section 5.3: Visual Privacy
 - Section 5.4: Acoustic Privacy
11. 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.
12. 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.
13. Pursuant to section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.
14. The Applicant has failed to provide the following information to enable a full and robust assessment of the proposal:
 - a. Details missing in architectural plans
 - b. Urban context study
 - c. Design analysis

- d. View analyses / photomontage
- e. Walking distance survey
- f. Geotechnical report
- g. Acoustic report
- h. Market analysis
- i. Fire Engineering report

Attachment/s:

Nil

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1. Executive Summary

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

- The development contravenes the number of storeys development standard by more than 10%;
- The development is subject to Chapter 4 of the Housing SEPP as the building is 3 or more storeys and contains at least 4 dwellings; and
- Forty-seven (47) unique submissions by way of objection were received

The proposal seeks development consent for demolition of existing buildings/structures, tree removal and construction of an 8-storey residential flat building comprising 27 apartments (2 x 2-bedroom and 25 x 3-bedroom) and 2 levels of basement parking containing 35 car parking spaces, associated ancillary and landscaping works.

The proposal seeks to benefit from the recently in-force ‘Low and Mid Rise Housing’ (LMR) provisions of the Housing SEPP that allow for the subject site, being within the inner ‘LMR’ area, to have a building height of 22m (and up to 6 storey) and FSR of 2.2:1, respectively.

In addition, the application also seeks to benefit from the ‘in-fill affordable housing’ provisions of the Housing SEPP that allow for the development to have additional building height and FSR of up to 30%.

Council notes that on 7 January 2025, the Applicant commenced proceedings in Class 1 of the Land and Environment Court’s jurisdiction appealing against the Council’s deemed refusal of the development application.

The key issues associated with the proposal relate to:

- Parking deficiency;
- Variation to the number of storeys and desired future character;
- Excessive external wall height, building depth, and visual impacts;
- Excessive basement footprint / insufficient deep soil area & tree canopy;
- Insufficient landscaped open space & non-compliant width for private open space;
- Insufficient building separation distances and privacy impacts;
- Solar access impacts on the subject site and neighbouring properties;
- Heritage conservation;
- Waste management;
- Overdevelopment / suitability of the site; and
- Insufficient information submitted.

The proposal is recommended for refusal due to the reasons outlined above in the recommendation section.

2. Site Description and Locality

The subject site is known as 25-27 Church Street, Randwick and is legally described as Lot 5 & 6 in DP 4908. The site is 1,183.4m², is regular in shape and has a 30.48m frontage to Church Street to the West. The site contains two single storey dwelling houses, with one (1) dwelling house on each lot.

The site adjoins a pair of semi-detached dwellings on each side, at 21 & 23 Church Street and 29 & 31 Church Street respectively. Two pairs of semi-detached dwellings are located at the rear of the subject site, at 6-12 Cook Street. The area is characterised predominantly by single and two storey residential dwellings and four (4) storey traditional flat buildings with ground floor garage / parking facilities, which are identified as the tallest buildings within the subject urban block.

Church Street exhibits a pronounced change in topography, with the northern side of the street situated approximately 6 metres below the street level on the southern side. While the slope is relatively gentle along the southern portion of the street, it becomes significantly steeper towards the northern end. The subject site is centrally located within Church Street and positioned at the transition point on the higher side of the street. Street levels continue to fall progressively to the north, with a steep level difference of approximately 2 metres between the subject site and 23 Church Street.

The site falls approximately 0.66m from the south towards the north along Church Street, consistent with the topography of the street. There are mature trees and established vegetations located within the site, along the boundaries. In addition, there are six (6) street trees located within the public domain along the Church Street frontage.

The site adjoins St Jude's HCA to the east and is within close proximity to a local Heritage Item "Federation House" at 14 Cook Street, which is listed as I328 in Randwick Local Environmental Plan (LEP).



Figure 1: Subject Site Viewed from Church Street (Source: Council Officer)

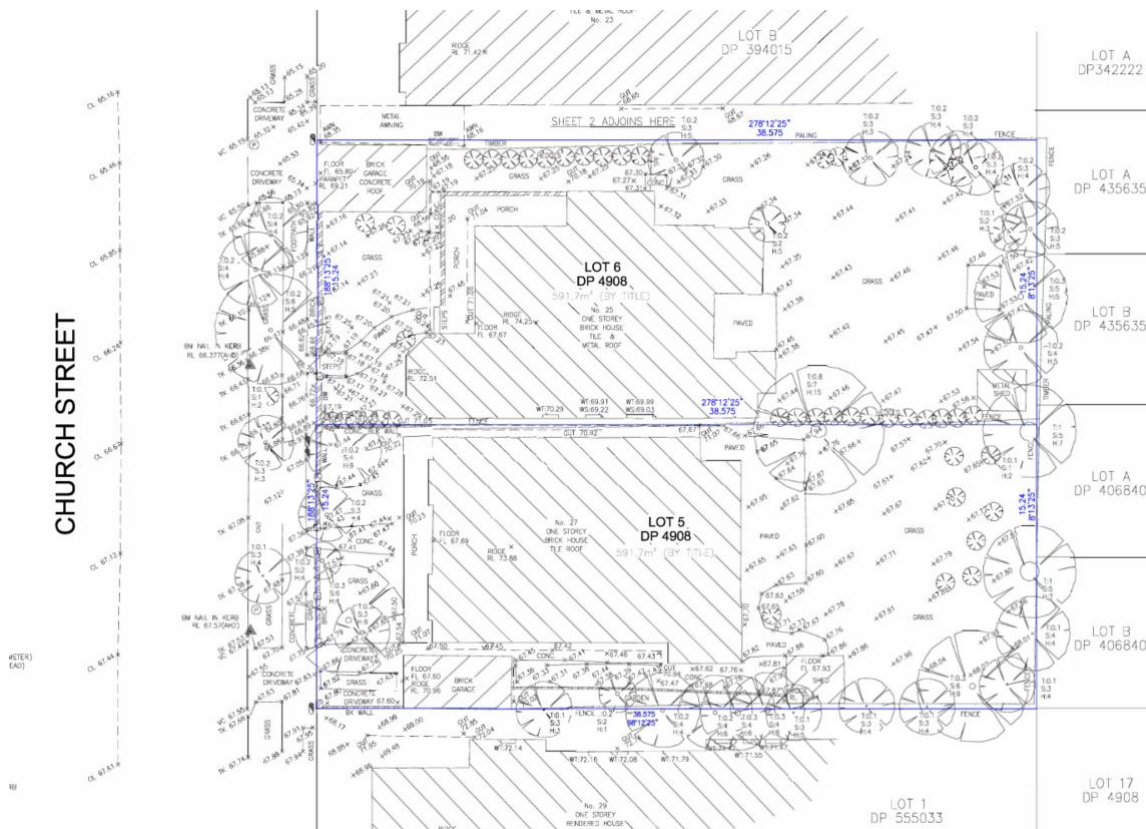


Figure 2: Land Survey (Source: Isurv Pty Ltd)

3. Relevant History

- On 12 November 2025, subject application was lodged with Council.
- On 7 January 2025, the Applicant commenced proceedings in Class 1 of the Land and Environment Court's jurisdiction appealing against the Council's deemed refusal of the development application.
- On 22 January 2026, the DA was reported to Design Excellence Advisory Panel.

4. Proposal

The proposal seeks development consent for demolition of existing buildings/structures, tree removal and construction of an 8-storey residential flat building comprising 27 apartments (2 x 2-bedroom and 25 x 3-bedroom) and 2 levels of basement parking containing 35 car parking spaces, associated ancillary and landscaping works. Specifically, the proposal involves:

Subdivision

- Amalgamation of two (2) lots into one (1) lot.

Demolition

- Demolition of existing structures on the site.
- Removal of all the trees and vegetation within the site.
- Removal of three (3) street trees within the public domain in front of no.25 Church Street.

Construction

- Construction of an eight (8)-storey residential flat building, comprising 27 apartments (2 x 2-bedroom and 25 x 3-bedroom) and 2 levels of basement parking containing 35 car parking spaces, and associated ancillary and landscaping works, details for each level have been outlined in the below table.
- Five (5) units are proposed as affordable housing, being Units 102, 103, 104, 502, and 602.

Level	Building Composition
Basement Level 2	<ul style="list-style-type: none"> • 24 parking spaces (including 3 accessible parking spaces) • 2 motorbike spaces • 18 bicycle spaces • Store rooms • Vehicular ramp leading to the level above • Lift and stairs leading to the level above
Basement Level 1	<ul style="list-style-type: none"> • 11 parking spaces (including 4 EV-charging visitor parking spaces) • Waste room • Store rooms • Plant, services and pump rooms • Vehicular ramp leading to the levels above and below • Lift and stairs leading to the levels above and below
Ground Floor	<ul style="list-style-type: none"> • Driveway at the northern end of the site accessed from Church Street • Passing bay to the south of the driveway • Centrally located pedestrian path leading from Church Street to the communal lobby • Communal lobby with lift, stairs and mailboxes • 3 x 3-bedroom apartments • Lift and stairs leading to the levels above and below • Substation in the north-western front corner of the site • Landscaping around the perimeters of the building
Level 1	<ul style="list-style-type: none"> • 4 x 3-bedroom apartments • Lift and stairs leading to the levels above and below • Planter landscaping on the eastern elevation and northern elevation at the western end
Levels 2-4	<ul style="list-style-type: none"> • 4 x 3-bedroom apartments • Lift and stairs leading to the levels above and below • Planter landscaping on the eastern elevation at the northern and southern end
Level 5	<ul style="list-style-type: none"> • 1 x 2-bedroom apartments • 2 x 3-bedroom apartments • Lift and stairs leading to the levels above and below • Planter landscaping on the eastern elevation at the northern and southern ends

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Level 6	<ul style="list-style-type: none"> • 1 x 2-bedroom apartment • 2 x 3-bedroom apartments • Lift and stairs leading to the levels above and below
Level 7	<ul style="list-style-type: none"> • 2 x 3-bedroom apartments • Lift and stairs leading to the levels above and below
Rooftop	<ul style="list-style-type: none"> • Rooftop communal open space with arbor structure above • Clothes lines • Plant rooms • Planter landscaping around the perimeters of the building • Lift and stairs leading to the level below



Figure 3: Proposed West (Street) Elevation (Source: Studio Johnston)



Figure 4: Proposed Photomontage (Source: Studio Johnston)

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. Forty-seven (47) unique submissions from the following properties were received as a result of the notification process:

- 1/6-8 Church Street
- 6/6-8 Church Street
- 11/6-8 Church Street
- 18/6-8 Church Street
- 20/6-8 Church Street
- 21/6-8 Church Street
- 25/6-8 Church Street
- 40/6-8 Church Street
- 61/6-8 Church Street
- 6-8 Church Street, unit number not provided, x6 submissions
- 4/19 Church Street
- 21 Church Street
- 23 Church Street
- 29 Church Street
- 31 Church Street
- 1/39 Church Street
- 2/39 Church Street
- 41-41A Church Street
- 3/47 Church Street
- 4/47 Church Street
- 1/49 Church Street
- G01/57-59 Church Street
- 101/57-59 Church Street
- 102/57-59 Church Street
- 57-59 Church Street, unit number not provided, x2 submissions
- 3 Cook Street
- 4 Cook Street
- 6 Cook Street
- 8 Cook Street
- 9 Cook Street
- 10 Cook Street
- 11 Cook Street
- 12 Cook Street
- 14 Cook Street
- 16 Cook Street
- 20 Cook Street
- 22 Cook Street
- 24 Cook Street
- 11 Frances Street
- Unknown address, x10 submissions

The submissions by way of objection have been paraphrased and summarised below:

Issue	Comment
<p>Eligibility of relying on the LMR provisions in Housing SEPP</p> <ul style="list-style-type: none"> - The property is outside the area proposed by Council's urban plan for higher density and taller buildings (Randwick Junction Map), and also outside the 800m walking distance to light rail 	<p>The subject site is mapped within Low and Mid-Rise Housing area on the Low and Mid-Rise Housing Policy Indicative Map.</p> <p>The applicant states that the subject site is located within 400m of Randwick Town Centre and therefore benefits from the provisions applicable to the LMR Inner Area. The SEE refers to a Walking Distance Survey prepared by ISURV in support of this claim; however, this document was not submitted to Council.</p> <p>The assessing officer agrees that the proposed development has a built form that has significant adverse impact on the streetscape and characters of the area and is not supported.</p>



Figure 5: Subject site (with no.27 Church St only highlighted in yellow) within Indicative LMR Housing Area in Low and Mid-Rise Housing Policy Indicative Map (Source: DPIE NSW)

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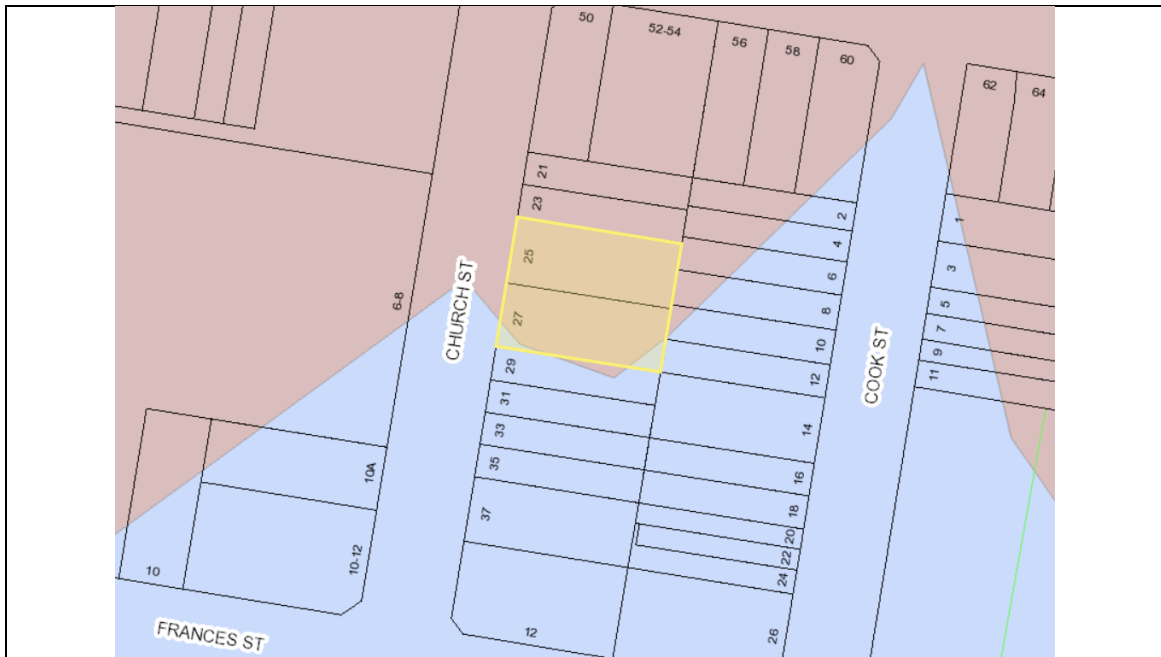


Figure 6: LMR Map with blue indicating LMR Inner Area and pink indicating LMR Outer Area, subject site highlighted in yellow (Source: Council)

<p>Excessive bulk and scale / out of character with the existing development on Church Street and visual impact / inadequate transition to the lower scale character of nearby buildings</p>	<p>This matter is agreed with. Refer to discussion in ‘Key Issues’ section of this report.</p>
<p>Non-compliant building height</p> <ul style="list-style-type: none"> - Non-compliant with 12m under LEP or 22m under LMR Provisions - Impact of the building will be exacerbated due to the position at the high point of Church Street. - The site sits approximately 2m higher than no.23 and the downhill relationship significantly magnifies the bulk scale and impacts of the proposal when viewed from lower-lying adjoining land. 	<p>The proposal involves 15% in-fill affordable housing and thus enjoys an additional 30% uplift building height, on the basis of the 22m building height allowed under LMR provisions. In this regard, the maximum building height allowed on the site is 28.6m.</p> <p>The proposal has a maximum building height of 28.6m (RL96.00) and complies.</p> <p>Nevertheless, the assessment officer agrees that the proposed excessive number of storeys is not appropriately justified and the associated bulk and scale is excessive and has significant impact as detailed throughout this report.</p>
<p>Inaccurate calculation of building height</p> <ul style="list-style-type: none"> - Should be 29m rather than 28.6m - Lack of information in the survey to confirm if the 28.6m is complied with across the site - Lack of 3D height planes to confirm the height is compliant 	<p>It is agreed that the proposal was not accompanied by a 3D height plane to demonstrate compliance with building height.</p> <p>However, the assessing officer has compared the proposal with the survey to confirm the maximum building height proposed, which appears compliant (refer to Figure 7).</p>

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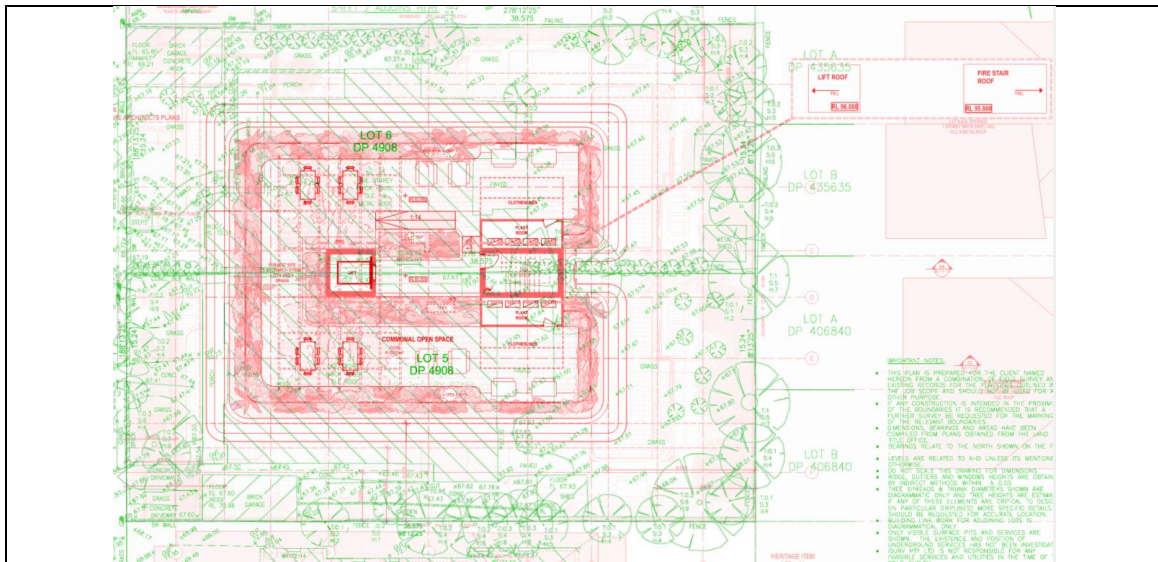


Figure 7: Overlay of survey (green) and roof level (red) (source: Council Officer)

<p>Non-compliant storey height</p>	<p>This matter is agreed with. Refer to discussion in Clause 4.6 under RLEP and 'Key Issues' section of this report.</p>
<p>Non-compliant external wall height</p>	<p>This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.</p>
<p>Non-compliant FSR with LEP and LMR Provisions and lack of Clause 4.6 variation request</p>	<p>The proposal involves 15% in-fill affordable housing and thus enjoys an additional 30% uplift FSR, on the basis of 2.2:1 FSR allowed under LMR provisions. In this regard, the maximum FSR allowed on the site is 2.86:1.</p> <p>The proposed FSR is 2.86:1 (3,382.33sqm), which complies.</p>
<p>Non-compliant with zone objectives and objectives of Clause 4.3 and Clause 4.4 in RLEP</p>	<p>This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.</p>
<p>Removal of trees</p> <ul style="list-style-type: none"> - Retention of the 3 street trees could occur through a more sensitive design - The frangipani tree at the front of 27 Church St is around 100 yrs old and must be preserved and cannot be replaced by a new young tree - Loss of tree canopy and neighborhood garden character 	<p>Council's Landscape Officer did not object to the removal of trees. However, issues have been raised regarding the protection and retention of trees within neighboring properties.</p> <p>The proposal involves tree planting to offset the loss. However, issues have been raised with the soil volume to accommodate the proposed species. Refer to comments from Council's Landscape Officer.</p>
<p>Non-compliant deep soil area</p> <ul style="list-style-type: none"> - Non-compliant with either LMR or DCP - Lack of Clause 4.6 request - Should comply with DCP requirements - Tree canopy guide is not a non-discretionary standard and should not be overriding DCP 	<p>This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.</p> <p>A Clause 4.6 request is not required for the variation to deep soil area as this is not a development standard.</p>

<ul style="list-style-type: none"> - Should provide generous deep soil zones and canopy trees rather than planters - Reduction in green open space would exacerbate urban heat island effects, reduce permeability and increase stormwater run-off issues, reduce local ecological resilience and devastate the native birds and animals 	<p>Tree canopy guide was referenced in the Housing SEPP, which prevails over DCP.</p>
<p>Increased population and increased disturbances for the existing homes</p>	<p>It is agreed that the proposal in its current form is an overdevelopment and is not suitable for the subject site.</p>
<p>Sustainability</p> <ul style="list-style-type: none"> - Only 4 EV spaces provided out of 35 spaces, NCC 2025 moving forward toward mandatory EV-ready infrastructure, lack of rooftop solar energy efficient measures 	<p>This matter is agreed with. Refer to comments from DEAP.</p>
<p>Provision of Affordable Housing</p> <ul style="list-style-type: none"> - Provision of affordable housing does not allow a shift of FSR from 0.9:1 to 3:1, or building height from 12m to 8 storey form - Council should ensure the genuine provision of affordable housing - Lack of reasonable basis to assume that such apartments can be left on an affordable basis, Council must audit rent and compliance - Council should require at least 20-30% affordable housing component and retention for the life of the building 	<p>The subject site is located within LMR mapped area and the proposal involves 15% in-fill affordable housing.</p> <p>In this regard, the proposal enjoys an additional 30% uplift on building height and FSR, on the basis of the bonus building height and FSR allowed under the LMR provisions within the Housing SEPP.</p> <p>A letter from Bridge Housing Pty Ltd TA HomeGround Sydney was submitted with the application, confirming that it will manage the affordable housing component. Were the application approved, a condition would have been imposed in the Notice of Determination to ensure the nominated units are used for affordable housing for at least 15 years.</p> <p>The affordable housing components are proposed in accordance with the definition and requirements under Chapter 2 of the Housing SEPP. Council has no power to require more components or the retention of these units beyond the period prescribed under the legislation.</p>
<p>Insufficient front setback</p>	<p>The proposed front setback is consistent with the prevailing setback along the street.</p> <p>However, it is agreed that the upper floors should provide greater setbacks to create a clearer distinction between the building base and upper levels. This would help reduce the perceived bulk, improve the human scale of the façade when viewed from the street, and contribute positively to the streetscape character.</p>

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<p>Insufficient building separation</p> <ul style="list-style-type: none"> - including side and rear setbacks at all levels, especially the upper levels 	<p>This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.</p>
<p>Constraints on adjoining properties' redevelopment opportunities due to non-compliant side and rear setbacks and nil setback of basement levels</p>	<p>This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.</p>
<p>Non-compliant building depth</p> <ul style="list-style-type: none"> - Non-compliant with DCP - Lack of articulation and visually intrusive - Result in less than 70% apartments achieving the minimum 2 hours solar access in living rooms 	<p>This matter is agreed with. Refer to discussion in RDCP.</p>
<p>Parking and traffic</p> <ul style="list-style-type: none"> - Non-compliant with parking spaces - At least 2 spaces should be provided for 3-bed apartments - Additional visitor parking spaces should be provided - Potential use of parking spaces as storage areas - Loss of street parking - Increased traffic in the area - Potential increased traffic hazards and risks on pedestrian safety - Lighting issues arise from the driveway due to its location being direct opposite to the front bedrooms 	<p>This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.</p> <p>The parking rate is a development standard prescribed in the Housing SEPP and ADG, and Council is unable to require more onerous standard.</p> <p>It is noted that the bedrooms within Nos. 6–8 Church Street are located at a minimum of Level 1, whereas the proposed driveway is situated at ground level. Having regard to this vertical separation, direct headlight glare into the bedroom windows is unlikely to occur. The difference in levels significantly reduces the potential for intrusive light spill into habitable rooms.</p>
<p>Inadequate apartment mix</p> <ul style="list-style-type: none"> - 25 x 3-bed and 2 x 2-bed will not support the projected population growth within the LGA referenced in Randwick City Local Strategic Planning Statement - 92% are 3-bed units, which contribute to the large floorplate and overall bulk and lack of deep soil planting 	<p>This matter is subject to a market analyses, which the applicant has failed to provide for assessment.</p>
<p>Inappropriate provision of Communal Open Space</p> <ul style="list-style-type: none"> - Lack of opportunities for social interaction nor different types of communal space 	<p>This matter is agreed with. Refer to referral comments from DEAP.</p>
<p>Not achieving design excellence</p>	<p>This matter is agreed with. Refer to discussion in 'Design Excellence' section of this report.</p>
<p>Solar Access / Overshadowing Impact</p> <ul style="list-style-type: none"> - The proposal does not achieve the minimum 2 hours' direct sunlight to living rooms of at least 70% - The sun analysis is misleading – it shows the entire block becoming predominantly 7-8 storeys, however no other DAs currently exist for such buildings on the subject urban block 	<p>This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.</p>

<ul style="list-style-type: none"> - Lack of full overshadowing diagrams for mid-winter and the equinox - Solar study should measure the impact on an identical building on 31 Church Street - Overshadowing impacts on the adjoining properties 	
<p>Acoustic privacy impact</p> <ul style="list-style-type: none"> - arise from large balconies and open rooftop and lack of sound barriers on the street - GF outdoor terraces within the rear setback is adjacent to the rear yard of 12 Cook Street 	<p>It is acknowledged that the proposal does not achieve appropriate acoustic privacy, primarily due to insufficient building separation distances and the absence of adequate mitigation measures. This has the potential to result in adverse noise transmission between dwellings and to adjoining properties. The applicant has failed to submit an acoustic report in support of the application.</p> <p>Notwithstanding this, the ground floor terraces are not considered to generate significant acoustic impacts to the adjoining rear yard. The terraces function as private open space areas ancillary to the ground floor units and are intended to accommodate typical domestic activities only. Such use is not generally associated with noise levels that would be considered unreasonable or unacceptable within a residential context.</p>
<p>Visual privacy impact</p> <ul style="list-style-type: none"> - arise from the windows, large balconies and open rooftop - lack of sight line analyses - Screening planting should be considered in setbacks to mitigate impacts 	<p>This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.</p>
<p>Loss of view</p> <ul style="list-style-type: none"> - loss of open sky and green leafy views and sense of openness 	<p>The view sharing planning principle seeks to protect significant scenic elements and iconic views of high public value. Open sky outlooks and green, leafy views are not typically regarded as views of high scenic or iconic significance within the context of this principle.</p> <p>Notwithstanding this, Council's Heritage Planner has raised concerns regarding the bulk and scale of the proposed development and its potential impact on the views to, and the setting of, contributory buildings within the St Jude's HCA and nearby heritage items. In this regard, consideration must be given not only to private view sharing outcomes but also to the broader heritage context and the manner in which the proposal may affect the visual prominence and character of heritage assets within the locality.</p>

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<p>Heritage conservation</p> <ul style="list-style-type: none"> - Randwick is the first Sydney suburb to become a Municipality in 1859, the pride of valuing such a heritage should be preserved. The beauty and peaceful nature of this part of Randwick would be shattered. - 25 Church Street is a beautiful heritage home and Council should enforce the retention of this home, otherwise the façade should at least be retained. - Impact on the Cook Street streetscape, St Jude Heritage Conservation Area and Heritage Items. - Lack of gentle transition between building scales close to heritage buildings and HCA - The Heritage Impact Statement needs a more comprehensive assessment of the impact on the HCA and Heritage items 	<p>This matter is mostly agreed with. Refer to referral comments from Council's Heritage Planner.</p> <p>25 Church Street is not identified as a heritage item or contributory building. Further, it is noted that CDC/314/2025 was issued by a private certifier for demolition of existing dwelling house and associated structures on site, and construction of a new single storey dwelling house.</p>
<p>Excavation & Geotechnical issues</p> <ul style="list-style-type: none"> - Nil setbacks non-compliant with Section 4.12 in Part C2 of RDCP - Nil setback excavation along side boundaries may undermine the structural integrity of adjoining sites, stormwater runoff and impair existing trees - the amount of excavation will deform the natural topography beyond recognition, boundary may have potential landslip as the years advance - 6 trees at no.29 Church St and 3 trees at no.23 Church St will be compromised due to nil setback excavation - Geotechnical report not provided 	<p>This matter is agreed with. Refer to referral comments from Council's Development Engineer and Landscape Officer.</p>
<p>Wind impact</p> <ul style="list-style-type: none"> - Creation of wind tunnels created by the 8 storey building 	<p>A Wind Assessment Report is only required for buildings exceeding nine (9) storeys. As the proposed development comprises eight (8) storeys, a wind assessment is not warranted in this instance.</p>
<p>Waste management</p> <ul style="list-style-type: none"> - Lack of arrangement for bulk waste collection 	<p>This matter is agreed with. Refer to referral comments from Council's Development Engineer.</p>
<p>Construction Activities and Impacts;</p> <ul style="list-style-type: none"> - A construction management plan should be required - Dilapidation reports should be required - Unacceptable level of traffic congestions and danger for pedestrians and vehicles during construction - Council should require the developer to compensate the adjoining residents for the duration of the build, include financial compensation, temporary relocation assistance and other forms of mitigation; 	<p>Were the application to be approved, standard construction-related conditions would be included in the Notice of Determination, including the requirements for a construction management plan and dilapidation reports.</p> <p>Council does not have the authority to require any form of compensation from the developer outside the mechanisms expressly provided for under the relevant planning legislation, such as applicable development contributions or planning agreements.</p>

Setting a precedent	This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.
Overdevelopment / Suitability of the site	This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.
Not in the public interest	This matter is agreed with having regard to the issues raised in this report and the issues raised in submissions received.
Issues with Architectural Rendering <ul style="list-style-type: none"> - Misleading, the impact will be greater than claimed by developers 	This matter is agreed with. Refer to discussion in 'Key Issues' section of this report.
Issues contained within the SEE <ul style="list-style-type: none"> - didn't address Clause 6.11 of RLEP 	Noted and the proposal is not considered to exhibit design excellence.
Issues contained within the Clause 4.6 request <ul style="list-style-type: none"> - it is unclear whether the applicant copied sections from a recent Maroubra application and failed to replace references to 'Maroubra Town Centre' with 'Randwick' - failure to address the public interest test - lack well grounded environmental planning grounds sufficient to warrant the variation 	Noted, however these matters are not a direct consideration in assessing the 'unreasonable and unnecessary' test. Nevertheless, the assessing officer is not 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.
Issues contained within the Arborist report <ul style="list-style-type: none"> - contradictory information - labelling all trees as high useful life expectancy while giving them low ratings without explanation 	Noted.
Devaluation of existing properties	Noted, however these matters are not a direct planning consideration in this DA.
Building quality <ul style="list-style-type: none"> - Risks of the builder builds cheap for profit not for quality. The building quality must be solid and attractive and built to last and in keeping with other buildings in look and feel and height. 	Noted, however these matters are not a direct planning consideration in this DA.
Stress on the local infrastructure and services, such as roads, water, drainage, NBN, public transport, electrical networks, child care, schools, etc.	It is agreed that the proposal in its current form is an overdevelopment.
Mental health issues due to loss of sunlight and privacy into the house and garden, particularly long-term neighbours and elderly locals	Noted, however these matters are not a direct planning consideration in this DA.
Lack of assessment against the draft DCP	It is noted that the draft Development Control Plan (DCP) has not yet been adopted and, as such, the provisions of the draft DCP are not a matter for consideration under the Environmental Planning and Assessment Act 1979.

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<p>Inappropriate sequencing of reports and design inputs</p> <ul style="list-style-type: none"> - Reports were completed after plans, which means the reports didn't inform or influence the design, contrary to the planning framework 	<p>Noted. While it is acknowledged that certain technical reports were finalised following preparation of the architectural plans, this does not necessarily indicate that the reports failed to inform the design process.</p> <p>In practice, preliminary investigations and consultant inputs are typically undertaken during the concept and detailed design stages, with formal reports subsequently prepared to document and substantiate the adopted design approach. The final reports therefore reflect and validate design decisions that were informed by specialist advice during the iterative design development process.</p>
<p>History of 25 Church Street</p> <ul style="list-style-type: none"> - No.25 was intended to be renovated rather redeveloped, and then sold to the developer. The representations materially influenced neighbor engagement at the time. The history reinforces the need for careful scrutiny of the proposal. 	<p>Noted, however these matters are not a direct planning consideration in this DA.</p>
<p>Lack of information about the developer and ownership, how the organisation is structured and funded, etc.</p>	<p>Noted, however these matters are not a direct planning consideration in this DA.</p>
<p>The strategic vision for Randwick, specifically Belmore Road, Alison and Avoca Streets. What mid to long term plans are being discussed or ratified that will create a cohesive vision of the area rather than a scatter gun approach to individual DAs?</p>	<p>Noted, however these matters are not a direct planning consideration in this DA.</p> <p>Council's approach to development within these areas is not undertaken in isolation through individual development applications, but is guided by an established strategic planning framework.</p> <p>This includes the Randwick Local Strategic Planning Statement (LSPS), the Randwick Local Environmental Plan (LEP), the Randwick Development Control Plan (DCP), and relevant State Environmental Planning Policies (SEPPs). These instruments collectively establish the intended land use patterns, built form outcomes, height and density controls, and public domain objectives for the locality.</p>
<p>Risks of new LMR legislation (untested framework)</p> <ul style="list-style-type: none"> - The proposal relies heavily on the new Low and Mid Rise Housing (LMR) reforms, which: <ul style="list-style-type: none"> • Are untested in real world application • Have not been supported by infrastructure, traffic, or heritage impact modelling 	<p>Noted, however the statutory assessment of this development application must be undertaken in accordance with the current legislative and planning framework in force at the time of determination.</p> <p>The LMR provisions form part of the applicable State planning controls and are therefore a relevant and operative planning instrument. Matters such as the broader</p>

<ul style="list-style-type: none"> • Were not designed for heritage adjacent, narrow, steeply sloping sites like Church Street • Create unintended consequences, including excessive height and bulk in established suburbs • Are already subject to widespread community concern and likely future amendment 	<p>policy rationale, potential future amendments, or the perceived merits of the legislative reform are not direct considerations in the assessment of an individual development application.</p> <p>Council's role is to assess whether the proposal complies with the relevant objectives and development standards contained within the applicable environmental planning instruments and development control plans, and to consider the matters prescribed under section 4.15 of the Environmental Planning and Assessment Act 1979.</p> <p>Where a proposal demonstrably satisfies the relevant objectives and controls, and no sufficient planning grounds exist to warrant refusal, Council is not in a position to refuse the application on the basis of generalised concerns regarding the broader LMR framework.</p> <p>Notwithstanding the above, a number of issues have been identified in the proposal in its current form, as detailed throughout this report. These issues relate to non-compliances and adverse impacts that have not been satisfactorily resolved or justified.</p> <p>Accordingly, having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the application is recommended for refusal.</p>
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6. Relevant Environment Planning Instruments

6.1. 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 removal of all the trees and vegetation within the site and three (3) street trees within the public domain in front of No.25 Church Street. The application has been reviewed by Council's Landscape Officer, who supports the removal subject to conditions.

However, concerns have been raised regarding the retention and protection of established trees located within the adjoining property to the south, No.29 Church Street. Refer to detailed assessment by Council's Landscape Officer at Referrals section in Appendix 1.

6.2. SEPP (Housing) 2021

Chapter 2 – 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 16 Affordable housing requirements for additional floor space ratio

Under the *SEPP (Housing) 2021*, the minimum affordable housing component is 10%.

The proposal provides 5 units for affordable housing, including Units 102, 103, 104, 502 and 602. The total GFA of these units is 510m². This results in 15% 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 proposed built form is not supported. The site is not suitable for an 8-storey building with a roof terrace due to the surrounding built form context and its close proximity to St Jude HCA and heritage items.

Section 19 Non-discretionary development standards—the Act, s 4.15

Section 19 outlines the non-discretionary development standards:

Requirement	Comment	Compliance
(a) Minimum site area of 450m ²	The site area is 1,183.4m ²	Yes.
(b) Minimum landscaped area that is the lesser of: (i) 35m ² per dwelling, or (ii) 30% of the site area	This is defined as <i>the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.</i> The proposal includes landscaped area of more than 30% of the site 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

<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>(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>A total of 5 affordable units or 15% (510m²) of total GFA is to be allocated as affordable housing with the following breakdown:</p> <ul style="list-style-type: none"> • 2 x 2-bedroom unit • 3 x 3-bedroom unit. <p>Therefore, 4 spaces are required for affordable housing units.</p> <p>The development proposes a total of 22 'market' units including 22 x 3-bedroom units.</p> <p>The required parking spaces for 'market' units are 33 spaces.</p> <p>The total required spaces for resident are 37 spaces, including 4 spaces for affordable housing units and 33 spaces for 'market' units.</p> <p>In addition to the parking spaces for residents, ADG requires the provision of visitor parking spaces in accordance with Guide to Traffic Generating Developments, which requires 1 visitor space per 7 dwellings.</p> <p>Required visitor spaces = 4 spaces Proposed visitor spaces =4 spaces</p> <p>TOTAL parking spaces required = 37 resident spaces + 4 visitor spaces = 41 spaces</p> <p>The proposed development includes a total of 35 spaces, including 4 visitor spaces and 31 resident spaces, which does not comply.</p>	<p>No</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 3 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 demonstrate its compatibility with the desired future character of the precinct. See the key issues section for more details.

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

(1) *Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development—*

(a) *the development will include the affordable housing component required for the development under section 16, 17 or 18, and*

(b) *the affordable housing component will be managed by a registered community housing provider.*

A letter from Bridge Housing Pty Ltd TA HomeGround Sydney was submitted with the application, confirming that it will manage the affordable housing component.

Chapter 4 – Design of Residential Apartment Developments

Chapter 4 of the Housing SEPP seeks to improve the design of residential apartment development. The proposed development is subject to Chapter 4 of the Housing SEPP as it involves substantial redevelopment of an existing 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 Review Panel

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 raised concerns with site isolation, building separation to side boundaries, basement extent, landscape provision and apartment amenity (mainly solar access).

The detailed comments provided by the DEAP are provided in Appendix 1. A response to each of the matters raised by the Panel is provided within the below table.

Panel Comment	Response
<p>1. <u>Context and Neighbourhood Character</u></p> <p>1. Site Isolation (Planning Principle):</p> <p><i>The Panel raised concern regarding potential site isolation of the adjoining property to the north at 21–23 Church Street. In the Panel’s view, this adjoining property will be constrained from achieving its redevelopment potential if developed in isolation.</i></p> <p><i>The applicant is required to demonstrate, through 3D massing diagrams and typical floor plans and typical basement plans, whether the adjoining site could reasonably achieve comparable floor space ratio, height, gross floor area and a functional basement car park arrangement.</i></p> <p><i>If this cannot be demonstrated, the Panel recommends consideration be given to site amalgamation to enable a consolidated development outcome that delivers improved urban design, built form and amenity outcomes for the urban block.</i></p>	<p><u>Council:</u> Agreed, concern regarding site isolation of 21-23 Church Street has not been accounted for.</p>

<p>2. Upper Level Setback:</p> <p><i>The Panel considered the proposal within the evolving planning context of Randwick, noting the introduction of higher-density built form under the Low Mid-Rise Housing and Transport Oriented Development provisions. While the Panel acknowledges that new building typologies are being introduced in established urban areas, it emphasises that new development must respond sensitively to existing neighbourhood character and adjoining sites.</i></p> <p><i>A four to five storey building base with upper level setbacks is supported in principle. However, the Panel considers that the distinction between the building base and upper levels should be more pronounced. Greater differentiation is recommended to be achieved through architectural composition, articulation, materiality and texture to clearly express the hierarchy between lower and upper built form elements and to better respond to the established streetscape (and to productively respond to Council’s Draft DCP criteria).</i></p>	<p>Council: Agreed, scale of development incompatible with desired future character and form. Refer to detailed discussion in Key Issues section.</p>
<p>2. Built Form and Scale</p> <p>1. ADG Part 3F and Building Separation to Side Boundaries:</p> <p>a. <i>The Panel recognises constrained building separation distances along the side boundaries which appear to be below the ADG Part 3F benchmarks of 6 metres for the lower levels (levels 1 to 4) and 9m for upper levels (levels 4 to 8). As a result, the development potentially limits opportunity for daylight, ventilation, outlook and privacy for both existing and future potential developments on adjoining properties along the side boundaries.</i></p> <p>b. <i>While strict numerical compliance with the ADG Part 3F is not endorsed, the Panel emphasises that the objectives of the ADG must be met and further design-based improvements must be demonstrated. The Panel recommends <u>architecture-led solutions</u> such as increased building indentations, blinkered windows and refined articulation rather than primary reliance on privacy screens or highlight windows.</i></p> <p>2. Extent of Basement Footprint:</p> <p><i>The Panel is unconvinced with the current basement footprint as it limits opportunities for planting within side boundaries and raises concern regarding the viability of neighbouring structures during construction.</i></p> <p><i>The Panel recommends reconfiguration of the basement envelope to enable deep soil pockets capable of supporting a mix of shrubs and small, medium and large canopy trees. These landscape buffers should enhance</i></p>	<p>Council: Agreed, concerns regarding future development amenity impacts. Refer to detailed discussion in Key Issues section.</p> <p>Council: Agreed. Refer to detailed discussion in Key Issues section.</p>

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<p><i>outlook for apartments, provide <u>meaningful separation between buildings</u> and improve overall residential amenity.</i></p> <p>3. Other Built Form Matters:</p> <ul style="list-style-type: none"> a. <i>The Panel also recommends that bicycle parking be relocated to a more accessible and legible position to encourage active transport use and improve safety and convenience for residents.</i> b. <i>The electrical substation should be reduced in scale where possible and integrated as a designed element rather than an engineering-driven outcome, to improve streetscape quality.</i> c. <i>The Panel reviewed apartment layouts and identified opportunities for improvement. The common corridor lacks access to daylight and natural ventilation, contrary to ADG objectives</i> d. <i>The Panel raised concern regarding the open lift shaft proposed at rooftop level, noting potential risks associated with rain ingress, downdraft and water management. These issues require further investigation and resolution through detailed design. Consider provision of a canopy sufficiently protecting the lift door/s.</i> 	<p><u>Council</u>: Agreed, design revisions are required to address the points raised by the DEAP.</p>
<p>3. <u>Density</u></p> <ul style="list-style-type: none"> 1. <i>The applicant should demonstrate consistency with the recommendations offered in this report and the objectives and criteria of the ADG, to gain the Panel’s support on Principle 3 – Density.</i> 2. <i>If the applicant seeks to maximise height and FSR benefits, the Panel recommends reconsideration of site amalgamation with adjoining properties, at a minimum incorporating 21–23 Church Street, to achieve a more efficient and equitable distribution of massing and improved overall design outcomes.</i> 	<p><u>Council</u>: Agreed.</p> <p><u>Council</u>: Agreed.</p>
<p>4. <u>Sustainability</u></p> <ul style="list-style-type: none"> 1. <i>Council should satisfy itself that the following sustainability recommendations for delivering beyond the minimum BASIX requirements are incorporated by the applicant:</i> <p><i>Ceiling fans to all living rooms and bedrooms as a low energy alternative, with any possible increases in coverage for natural ventilation to take advantage of the site’s location and prevailing breezes.</i></p> <p><i>Development of a systems-based approach to managing rainwater, stormwater, and water required for irrigation,</i></p>	<p><u>Council</u>: Noted.</p>

<p><i>such that harvested and treated water for use in toilets, laundries and the landscape is optimised. The applicant is particularly encouraged to explore green infrastructure approaches to the OSD requirement.</i></p> <p><i>Inclusion of an appropriate photovoltaic system to power common areas within the building.</i></p> <p><i>Full electrification including provision for EV charging points within the basement carpark, and consideration of future electrical demand loads against the proposed sub-station capacity.</i></p>	
<p>5. <u>Landscape</u></p> <ol style="list-style-type: none"> 1. <i>Rooftop communal open space is supported in principle; however, it should be supplemented with appropriate shelter and amenity including a non-permeable roof over areas like the BBQ, a unisex accessible toilet, lockable storage and a kitchenette, to ensure functional and equitable use.</i> 2. <i>The Panel recommends that the applicant develop detailed landscape design documentation, including exploration of additional opportunities for planting on structures such as rooftops, terraces, and building edges.</i> 3. <i>Revised documentation should include 1:20 landscape design intent sections confirming adequate soil depths for all planting on structures.</i> 4. <i>Additionally, the applicant should provide clarity on how irrigation, maintenance, and green waste removal will be managed from all planting on structures during life of the project.</i> 	<p><u>Council:</u> Agreed, lack of functionality of the COS accounted for in the design.</p> <p><u>Council:</u> Agreed.</p> <p><u>Council:</u> Noted.</p> <p><u>Council:</u> Noted.</p>
<p>6. <u>Amenity</u></p> <ol style="list-style-type: none"> 1. <i>Residential layouts are heavily mirrored and do not adequately respond to solar orientation. As a result, criteria within Part 4A Solar Access of the ADG is not sufficiently met for 70% of apartments with direct solar access to <u>both</u> living rooms and balconies in mid-winter.</i> 2. <i>On typical levels, two of the four southern apartments do not receive direct sunlight to living rooms. The Panel recommends reconfiguring layouts to prioritise living rooms to building perimeters where possible, improving solar access and internal amenity.</i> 3. <i>The Panel also noted inefficiencies in larger three-bedroom apartments, with excessive circulation space and limited functional living room configuration. Living spaces should be reviewed to ensure practical</i> 	<p><u>Council:</u> Agreed, reconfiguration of apartments to improve solar access required.</p> <p><u>Council:</u> Noted.</p> <p><u>Council:</u> Agreed.</p>

<p><i>furniture layouts, including provision for TV credenzas.</i></p> <p>4. <i>The Panel recommends investigation into whether Unit 3 could be provided with a direct and individual street entry to enhance diversity and activation.</i></p>	<p><u>Council</u>: Agreed.</p>
<p>7. <u>Safety</u></p> <p><i>No discussion</i></p>	<p><u>Council</u>: Noted.</p>
<p>8. <u>Housing Diversity and Social Interaction</u></p> <p>1. <i>Revised architectural drawings should confirm layouts of both – pre and post adaptable layouts. The applicant should ensure that the extent of changes between pre and post adaptation avoid structural and plumbing amendments.</i></p>	<p><u>Council</u>: Agreed, layouts are required to be provided.</p>
<p>9. <u>Aesthetics</u></p> <p>1. <i>With the revised scheme, developed architectural drawings should fully describe the design intent and include details of each primary façade type in the form of 1:20 sections and elevations (or using appropriate detailed 3D design material) indicating proposed materials, construction systems, balustrade types and fixings, balcony edges, window operation, integrated landscape planter beds, junctions, rainwater and balcony drainage, including any downpipes and similar details within the proposal. Typical wall details to be developed to meet NCC2022 requirements.</i></p> <p>2. <i>Of particular concern are the horizontal projecting fins on the upper levels, which would seem to introduce potential maintenance and cleaning issues – consideration should be given to drainage, silt collection and staining of light-coloured facades below.</i></p> <p>3. <i>Revised architectural drawings, 3D views and photomontages should confirm locations of A/C condensers and similar mechanical equipment. These should not be located within balconies (unless thoughtfully screened or integrated with architectural elements) or anywhere visible from the surrounding public domain.</i></p>	<p><u>Council</u>: Noted.</p> <p><u>Council</u>: Agreed.</p> <p><u>Council</u>: Agreed, lack of detail of plant/services on plans.</p>

Design Quality Principles

A Design Verification Statement, prepared by Studio Johnston and dated 24th October 2025 was submitted with the application. The statement outlines how each of the nine design quality principles has been addressed in the proposal.

The comments provided by the DEAP (refer to Appendix 1) detail how each of the nine quality design principals have been considered in the proposal, and as summarised above.

Apartment Design Guide

The table in Appendix 3 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.

Non-discretionary Development Standards

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

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

Assessing officer's comment: The car parking requirements have been detailed in Section 19 of Chapter 2 Affordable Housing.

- (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: Each proposed apartment provides an internal area greater than the minimum internal area required.

- (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: The proposed ceiling heights for the building are greater than the minimum ceiling heights required.

Chapter 6 – Low and Mid Rise (LMR) Housing

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

The subject application seeks to use the LMR housing provisions under Part 4 'Residential flat buildings and shop top housing' of Chapter 6 of the Housing SEPP as the subject site is located within 800m of Randwick Town Centre and Light Rail Station. Specifically, the subject application relies on the development standards for low and mid rise housing inner area.

The applicant states that the subject site is located within 400 m of Randwick Town Centre and therefore benefits from the provisions applicable to the LMR Inner Area. The SEE refers to a Walking Distance Survey prepared by ISURV in support of this claim; however, this document was not submitted to Council. Without this document, Council cannot confirm that the site is within the 400m distance and therefore is recommended for refusal.

That being said, Council has considered the merits of the application against the inner area controls of the LMR provisions.

Section 175 contains the development standards for the inner area:

- (2) *Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.*

The proposal involves eight (8) storeys, which does not comply with this standard. A Clause 4.6 variation request has been submitted and assessed in the RLEP section.

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 raised issues regarding this matter.

Section 180 contains the non-discretionary development standards for RFB's in R3.

Clause	Development Standard	Proposal	Compliance (Yes/No)
Section 180(2)(a): Floor space ratio (max) Affordable Housing Uplift of 30%	<u>LMR Inner</u> = 2.2:1 <u>Affordable Housing</u> = Max additional 30% = 2.86:1 / 3,384.5sqm	3,382.33sqm / 2.86:1	Yes
Section 180(2)(b) Building height (max) Affordable Housing Uplift of 30%	<u>LMR Inner</u> = 22m <u>Affordable Housing</u> = Max additional 30% = 28.6m	28.6m / RL96.00	Yes

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

6.4. SEPP (Sustainable Buildings) 2022

A BASIX Certificate has been submitted in accordance with the requirements of the Sustainable Buildings SEPP 2022.

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 of 'residential flat building' is permissible with consent.

The objectives of R3 zone include:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*

- To protect the amenity of residents.
- To encourage housing affordability.
- To enable small-scale business uses in existing commercial buildings.

The proposal is inconsistent with the specific objectives of the zone in that the proposed built form will impact the character of the area and the amenity of the local residents. Refer to discussion in key issues section for further details.

In this regard, the proposed development is recommended for refusal.

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)	<p><u>LEP</u> = 12m</p> <p>Housing SEPP <u>LMR Inner</u> = 22m / 6 storeys <u>Affordable Housing</u> = Max additional 30% = 28.6m</p>	28.6m / RL96.00	Yes
Cl 4.4: Floor space ratio (max)	<p><u>LEP</u> = 0.9:1</p> <p>Housing SEPP <u>LMR Inner</u> = 2.2:1 <u>Affordable Housing</u> = Max additional 30% = 2.86:1 / 3,384.5sqm</p>	3,382.33sqm / 2.86:1	Yes

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

6.5.1. Clause 4.6 - Exceptions to development standards

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

6.5.2. 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.

The subject site is not listed as heritage item nor located within a Heritage Conservation Area (HCA). However, the site is abutting St Jude’s HCA to the east and contributory buildings No.6-12 Cook Street and is within close proximity to Heritage item I328 at No.14 Cook Street.

There are concerns that with the proposed scale and bulk and lack of appropriate rear and upper-level setbacks, the proposed development will be highly visible from Cook Street and have

irreversible adverse visual impact on settings and views of the HCA, Heritage and contributory buildings.

The proposal in its current scheme is not supported from a heritage perspective, refer to detailed assessment by Council's Heritage Planner at Referrals section in Appendix 1.

6.5.3. *Clause 6.2 – Earthworks*

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

The proposal involves excavation works up to 8m depth to accommodate two (2) basement levels. The submitted Geotechnical Report fails to adequately account for the impact of the development on the stability of adjoining land.

As such, 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; and
- The proposed excavation will likely result in an adverse impact on the amenity of adjoining properties.

6.5.4. *Clause 6.10 – Essential services*

The objective of clause 6.10 of RLEP 2012 is to ensure that services that are essential for the development are available or that adequate arrangements have been made to make them available.

The development application has not been accompanied by an infrastructure assessment to determine if adequate arrangements for electricity supply have been made to accommodate the additional dwellings and load on the existing electricity network.

6.5.5. *Clause 6.11 – Design excellence*

Section 6.11(2) of the RLEP 2012 states that development consent must not be granted to development to which this Clause applies unless the consent authority is satisfied that the proposed development exhibits design excellence.

The proposed development does not exhibit design excellence as it does not provide a high standard of architectural design, materials and detailing, as follows:

- (a) The residential layout of the larger three-bedroom apartments is inefficient, with excessive circulation space and limited functional living room configuration. Living spaces should be reviewed to ensure practical furniture layouts, including provision for TV credenzas.
- (b) The horizontal projecting fins on the upper levels, which would seem to introduce potential maintenance and cleaning issues.
- (c) Details were missing in plans, including façade details, balustrade type and fixings, balcony edges, window operation, integrated landscape planter beds, junctions, rainwater and balcony drainage, and locations of A/C condensers and similar mechanical equipment.
- (d) The bicycle parking should be relocated to a more accessible and legible position to encourage active transport use and improve safety and convenience for residents.
- (e) The open lift shaft at the rooftop level introduces potential risks relating to rainwater ingress, wind downdraft effects, and ongoing water management.
- (f) The rooftop communal open space should be supplemented with appropriate shelter and amenity including a non-permeable roof over areas like the BBQ, a

unisex accessible toilet, lockable storage and a kitchenette, to ensure functional and equitable use.

- (g) The development application fails to provide detailed landscape design documentation, including exploration of additional opportunities for planting on structures such as rooftops, terraces, and building edges. Revised documentation should include 1:20 landscape design intent sections confirming adequate soil depths for all planting on structures. Additionally, the applicant should provide clarification on how irrigation, maintenance, and green waste removal will be managed from all planting on structures during life of the project.
- (h) The development application fails to confirm layouts of both – pre and post adaptable layouts. The applicant should ensure that the extent of changes between pre and post adaptation avoid structural and plumbing amendments.

The proposed development does not exhibit design excellence as it does not have the form and external appearance that will improve the quality and amenity of the public domain, as follows:

- (a) The existing character of the locality is predominantly defined by single and two storey residential dwellings and three to four-storey residential flat buildings with ground floor garages. The proposed eight-storey development with the five storey street presentation and minimal setback on the upper floors, is inconsistent with this established maximum four-storey scale and does not contribute to the desired future character. Its overall height and bulk result in a visually dominant built form that detracts from the prevailing streetscape and does not contribute to the desired future character of the area.
- (b) The electrical substation should be reduced in scale where possible and integrated as a design-led element rather than an engineering-driven outcome, to improve streetscape quality.
- (c) Direct pedestrian access from the public domain could reasonably have been provided to Ground Floor Unit 003, thereby contributing to activation of the street frontage and a more positive interface with the public domain.

The proposed development does not exhibit design excellence as it does not respond to the environmental and built characteristics of the site and achieve an acceptable relationship with other buildings on neighbouring sites, as follows:

- (a) The development application has failed to provide streetscape analysis or urban design justification for the extruded built form or street wall scale.
- (b) The development application has failed to provide contextual analysis or urban design justification to assess the potential impacts of the proposed storey height exceedance within the character of the locality.
- (c) The development application has failed to provide contextual analysis or urban design justification to assess the impacts on the St Jude HCA and Heritage item at 14 Cook Street.
- (d) The development, seeking to maximise the height and FSR benefits under the Housing SEPP, results in design and compliance deficiencies, including:
 - (i) excessive storey height;
 - (ii) insufficient upper-level street setbacks;
 - (iii) insufficient building separation;
 - (iv) excessive building depth;
 - (v) insufficient deep soil area;
 - (vi) insufficient width for private open space at Ground Floor; and
 - (vii) insufficient landscaped open space.

- (e) The proposed design fails to respond sensitively to the site constraints or the established character of Church Street and its immediate surrounds including the St Jude HCA.
- (f) The inadequate building separation proposed would constrain opportunities for adequate daylight access, natural ventilation, outlook and privacy for both existing and any future development on adjoining properties along the side boundaries. This impact is evident in the Proposed Street Elevation Diagram (DA-210-501) and the submitted photomontage, which demonstrate that adjoining sites would be forced to provide increased side setbacks to achieve acceptable building separation, thereby unreasonably burdening their development potential.
- (g) The basement footprint with nil side setbacks limits opportunities for planting within side boundaries and raises concern regarding the viability of neighbouring structures during construction.
- (h) The proposed landscaping outcomes, including the provision of genuine deep soil areas and the quality of communal open space amenity, remain uncertain. It is unclear whether the proposed trees at the rear of the site will be provided with adequate soil volume, as the proposed deep soil zone appears to have limited soil depth and area.
- (i) The development application should ensure that all planters provide suitable soil depth/volume and width for the proposed plantings and adequate access is provided to the upper level planters for maintenance and services.
- (j) The proposed development represents a poor design outcome and unreasonably creates adverse amenity impacts on surrounding neighbours including visual impact, privacy and overshadowing impacts.

The proposed development does not exhibit design excellence having regard to meeting sustainable design principles in terms of sunlight, natural ventilation, safety and security, energy efficiency and urban heat island effect mitigation, as follows:

- (a) The proposed residential layout fails to adequately respond to solar orientation. As a result, the proposal fails to achieve adequate solar access to the living rooms of the southern apartments and fails to achieve the minimum 70% requirements under ADG.
- (b) The common corridor lacks access to daylight and natural ventilation, contrary to ADG objectives.
- (c) The proposed development fails to retain adequate solar access to the living rooms and private open space of adjoining properties, which significantly impact on their amenity.
- (d) The proposal fails to achieve energy efficiency as nil solar panels or energy efficiency devices are provided.
- (e) The proposal fails to achieve urban heat island effect mitigation, noting the number of trees to be removed and lack of genuine deep soil area for tree planting.
- (f) The sustainability recommendations by the DEAP should be considered, including provision of ceiling fans, green infrastructure approaches to the OSD requirement, inclusion of an appropriate photovoltaic system, Full electrification including provision for EV charging points within the basement carpark, and consideration of future electrical demand loads against the proposed sub-station capacity.

7. Clause 4.6 Exception to a Development Standard

The proposal seeks to vary the following development standard contained within the SEPP (Housing) 2021:

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)

Section 175(2) Number of storeys	6 storeys	8 storeys	2 storeys	33%
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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 Number of Storeys development standard (Section 175(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. In this regard, the principles of the Housing SEPP Policy are taken into consideration.

- (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 has failed to address the above principles. The objectives of the R3 Medium Density Residential zone have been addressed as follows:

The proposed storey height variation does not raise any inconsistency with the ability of the proposal to achieve the objectives of the R3 Medium Density Residential zone.

The proposal is consistent with the objectives of the R3 zone as follows:

- *Despite the storey height variation, the proposal will provide improved housing choice and affordability in proximity to nearby services and facilities within a medium-density residential environment where housing is in demand.*
- *The non-compliant storey height facilitates the provision of additional affordable housing on the site in a well-serviced location.*
- *The subject site is located in a low and mid-rise housing inner area, pursuant to Chapter 6 of the Housing SEPP. The site is thereby located in an area undergoing transition. The proposed height and scale are consistent with that contemplated by Chapter 2 – Affordable Housing of the Housing SEPP (Sections 16(1) and Section 16(3)) and will therefore contribute to the desired future character of the area.*
- *The non-compliant storey height will not unreasonably impact the amenity of neighbouring properties and the streetscape in terms of overshadowing, privacy and view loss, noting that the proposal complies with the building height and FSR development standards.*

Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the storey height variation.

Assessing officer's comment:

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. The reasons are outlined as follows:

- (i) The proposal does not comply with the ADG or Chapter 2 or 4 of the SEPP (Housing) 2021.
- (ii) The proposal does not satisfy the zone objectives or objectives for Clause 4.3 Building Height, where it refers to desired future character of the area. The development application results in a size and scale of development that does not contribute to the desired future character of the area, being a greater height and bulk than what is envisioned in the area by the LMR provisions under the Housing SEPP.
- (iii) The proposal will adversely impact on the amenity of adjoining and neighbouring land in terms of visual amenity, loss of privacy and overshadowing as a result of the excessive storey height.
- (iv) The proposal will adversely impact on the heritage significance of the adjoining St Jude HCA and the Heritage Item I328 'Federation House' at no.14 Cook St that is within close proximity.

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 storeys development standard as follows:

- Pursuant to Section 180(2)(b) of Chapter 6 of the Housing SEPP, the site is subject to a maximum storey height of 22m. The proposal includes infill affordable housing. As such, Chapter 2 – Affordable Housing of the Housing SEPP applies to the proposed development. Section 16(3) of Chapter 2 of the Housing SEPP permits a 30% uplift above the base storey height for affordable housing, thereby allowing for a storey height of 28.6m. Therefore, despite the storey height non-compliance, the proposed 8-storey LMR affordable housing residential flat building is in correlation with the allowable building height of 28.6m.
- The proposed storey height non-compliance, which correlates to the building height development standard, is compatible with the desired future character of the locality, which is undergoing transition.
- The upper levels of the building are recessed, and each level of the building is articulated with balconies, privacy screens, idents, and a range of materials and finishes, to minimise the perceived bulk and scale impacts when viewed from the surroundings of the site.
- The proposed development, inclusive of the storey height non-compliance, allows the provision of a diversity of housing types (a mix of 2-bedroom and 3-bedroom apartments), including affordable housing, which will assist in meeting the NSW Government housing targets for the Eastern City District and Randwick Council. The State Government has introduced the Low and mid rise housing policy whilst also allowing for affordable housing to be provided in addition to the height and FSR standards under the LMR provisions. This signals a clear intent to provide increased density in well serviced locations. The State Government also did not impose minimum lot size or lot width requirements, which is also considered to confirm that the proposed form of development is consistent with that anticipated by the newly introduced Policies.
- The proposed development, inclusive of the building height variation (storeys), will not have an unreasonable impact on views from the public domain or surrounding properties.
- As demonstrated in the Elevation Shadow Diagram (Dwg No. DA-790-002) submitted with this DA, the proposed storey height non-compliance will not result in additional overshadowing of the adjoining property to the south at No. 29 Church Street compared to a development that complies with the RLEP 12m building height control and the RDCP 2.5m side setback control, if No. 27 Church St were developed independently. The additional overshadowing of the adjoining lots to the south and east is associated with a built form (building height and FSR) that is compliant with Sections 16(1) and 16(3) of the Housing SEPP. In this regard, the overshadowing resulting from the proposed development is consistent with the emerging character of the medium-density residential area, in accordance with Chapter 6 Low and Mid Rise Housing of the Housing SEPP.
- Notwithstanding the variation to the storey height control, the proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represent 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).

Assessing officer's comment:

To benefit from the maximum 30% uplift in both height and FSR standards under Chapter 2 of Housing SEPP, the proposed development must satisfy the character test in demonstrating the proposal is compatible with the desired future character of the precinct.

The proposed development does not contribute to the desired future character of the area. The viability and feasibility of achieving the greater densities implied by the cumulative application of height and FSR bonuses under both the Affordable Housing and Low and Mid-Rise Housing provisions of the Housing SEPP are questionable, having regard to the sensitive planning context. This includes the proximity of the St Jude Heritage Conservation Area, the presence of nearby heritage items, the transitional interface between the LMR Inner Area and the LMR Outer Area, and the prevalence of strata-titled ownership along the western side of Church Street, which significantly constrains realistic redevelopment potential.

Additionally, the proposed development application does not protect the amenity of residents in failing to provide adequate solar access, visual amenity and privacy for the neighbouring residents. These have been discussed throughout this report.

In conclusion, the applicant's written request has not 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 Storeys 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.

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Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal fails to satisfy 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(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 inconsistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	the site is not suitable for the proposes development having regard to the surrounding context that is characterised by three to four storey walk-up residential flat buildings, and sensitive interface with properties locate within St Jude HCA and heritage items on Cook Street. Refer to key issues section for further discussion.
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 fails to promote the objectives of the zone and not result in significant adverse environmental, social or economic impacts on the locality. The proposal seeks significant and numerous non-compliances with relevant planning controls. In addition, Council concurs with a number of the objections raised in the public submissions. Therefore, the proposal is not considered to be in the public interest.

9.1. Discussion of Key Issues

Insufficient Parking Spaces

Section 19 'Non-discretionary development standards—the Act, s 4.15' of the Housing SEPP relevantly states as follows:

“(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—

...

(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,”

Section 5.4.3 ‘High Density Residential Flat Buildings’ of the Guide to Traffic Generating Developments states as follows:

“The recommended minimum number of off-street resident parking spaces is as follows:

Metropolitan Regional (CBD) Centres:

...

1 space per 7 units (visitor parking).”

The proposed development involves five (5) affordable housing dwellings and twenty-two (22) dwellings that are not affordable housing as follows:

- i) Affordable housing dwellings: 3 x 3-bed units and 2 x 2-bed units;
- ii) Market housing dwellings: 22 x 3-bed units.

The required parking spaces are calculated as follows:

- i) Affordable housing dwellings: $3 \times 1 + 2 \times 0.5 = 4$;
- ii) Market housing dwellings: $22 \times 1.5 = 33$;
- iii) Visitor parking = $27 / 7 = 4$.

TOTAL = $4 + 33 + 4 = 41$ spaces.

The proposal provides thirty-five (35) vehicle parking spaces including thirty-one (31) residential parking spaces and four (4) visitor parking spaces, which fails to comply with the development standards (37 spaces) under the Housing SEPP and represents a shortfall of six (6) resident parking spaces.

The submitted Traffic Impact Statement prepared by Traffix and dated 29 October 2025 fails to identify the accurate parking rates that apply to the dwellings that are not affordable housing and fails to identify the requirements for visitor parking. It relied on Section 148(a) in Chapter 4 of the Housing SEPP, rather than 19(2)(f) in Chapter 2 of the Housing SEPP.

In the absence of a valid Clause 4.6 variation request, there is no power for the consent authority to grant development consent.

Desired Future Character

The site is within Zone R3 Medium Density Residential under the provisions of Randwick Local Environmental Plan 2012. The area is characterised predominantly by single and two storey residential dwellings and four (4) storey traditional flat buildings with ground floor garage / parking facilities, which are identified as the tallest buildings within the subject urban block along Church Street between Cowper Street to the north and Frances Street to the south.

The subject site appears to be located at the edge of the LMR Inner Area, while the properties immediately to the north are situated within the LMR Outer Area (refer to Figure 6). This is to be confirmed by the applicant via a walking distance survey. Development on those northern properties is therefore subject to a maximum floor space ratio of 1.5:1 and a maximum building height of 17.5 metres or four storeys. In this context, the submitted street elevation diagram depicting a six-storey development on the adjoining properties at 21–23 Church Street is inaccurate and misleading, as it does not reflect the applicable statutory controls.

Additionally, 21-23 Church Street are effectively constrained by site isolation, having a combined land area approximately half that of the subject site and being adjoined to the north by strata-titled walk-up residential flat buildings. These factors significantly limit their redevelopment potential.

The properties to the east are located within St Jude HCA and, due to heritage constraints, are unlikely to reach the full development potential contemplated by the LMR provisions.

All properties to the west of the site along Church Street, between Cowper Street to the north and Frances Street to the south, are strata titled walk-up residential flat buildings. Given their strata ownership and existing built form, the likelihood and feasibility of redevelopment of these sites is relatively low.

The Applicant has failed to provide any detailed modelling to demonstrate that development similar to that proposed on the site would in fact be achievable on adjoining and nearby properties, given the physical constraints and the proximity to Heritage items and St Jude HCA described above. In particular, there is no evidence that such sites could accommodate equivalent height, and density increases while maintaining compliance with applicable planning controls relating to building separation, residential layouts, parking provision, deep soil and landscape areas, tree canopy coverage, common open space, visual bulk, privacy, and solar access.

Further, the applicant has failed to provide a detailed built form analysis on the adjoining properties, demonstrating that sufficient building separation, and visual privacy and solar access could be achieved between those sites and the subject property, consistent with the requirements of the Housing SEPP and the ADG.

Having regard to the above, the Applicant's reliance on potential redevelopment of surrounding sites under the LMR and Affordable Housing provisions in a manner that is consistent with the proposed development is not considered a valid or credible basis for defining the desired future character of the area.

The proposed development, therefore, fails to demonstrate that it appropriately contribute to the desired future character of the locality in accordance with the requirements of RLEP 2012 and the Housing SEPP.

Approval of the application in its current form would set an undesirable precedent for the locality, leading to a gradual erosion of the established streetscape character and undermining the planning objectives for the area.

Variation to the Number of Storeys

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.

Excessive External Wall Height, Building Depth, and Visual Impacts

Section 4.4(i) in Part C2 of RDCP 2013 relevantly states as follows:

Where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.

The proposed development involves an eight (8)-storey building with a five (5)-storey base and a top section with three (3) storeys. This results in an external wall height of 17.5m, which does not comply with the RDCP controls.

RDCP 2013 predates the introduction of the Low-Medium Density (LMR) provisions in the Housing SEPP and therefore did not anticipate built forms with a permissible height of up to 22 metres or 28.6 metres with in-fill affordable housing. As such, strict application of the 10.5-metre external wall height control may not be appropriate, and the proposal must instead be assessed on its merits.

The minimal differentiation in setbacks between the lower storeys and the upper levels fails to clearly articulate the building into distinct base and upper elements. As a result, the development reads as an eight-storey form when viewed from the street, contributing to an overly dominant streetscape presence and resulting in an unacceptable visual impact.

The existing development along Church Street features a maximum four-storey development and the proposed development fails to respond to these established streetscape characteristics and does not present a human scale built form, resulting in an overly dominant presence along the street.

Additionally, the topographical variation along Church Street results in the northern side of the street being situated at a significantly lower level than the subject site, which is located at the transition point on the higher side of the street. As a result, any development on the subject site, or on the southern portion of Church Street, is visually elevated relative to the northern properties, thereby increasing the apparent height, bulk and scale of the proposed development when viewed from the public domain and adjoining sites.

In this context, any increase in building height is visually amplified, resulting in a disproportionate impact on the northern properties and causing significant adverse impacts on their outlook and the established streetscape amenity.

The proposed development, including excessive storey height, street wall height and massing, inappropriate building section articulation, insufficient upper level street setbacks, combined with lack of building separation and mitigation measures, creates significant visual impacts on adjoining properties and fails to meet the objectives of the DCP.

Excessive Basement Footprint / Insufficient Deep Soil Area & Tree Canopy

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.

The proposed basement provides nil side setbacks to the side boundaries and a rear setback of 3m. Insufficient information has been provided to justify the non-compliance or demonstrate that the proposal will minimise impact on drainage patterns, soil stability, and adjoining structures.

The extensive footprint of the basement has resulted in insufficient deep soil zones to accommodate trees and vegetation to offset the loss and mitigate the impact of the proposal. While the proposal achieves the minimum required deep soil area of 7%, ADG prescribes larger deep soil area of 10% on sites with an area of 650m² - 1,500m². The subject site has a combined area of 1,183.4sqm and does not comply with this requirement. This undermines the ability to accommodate effective screening vegetation along the boundaries and mitigate privacy, visual bulk and heritage impacts.

Further, the applicant has failed to demonstrate compliance with the minimum 15% tree canopy coverage. No evidence has been provided to confirm that the proposed planting scheme can realistically achieve the required canopy extent at maturity. As detailed in the comments from Council's Landscape Officer, the 3m wide planting zone is insufficient to accommodate the proposed canopy trees. In this regard, the proposed species will have to be replaced with smaller or more constrained species, which would materially reduce the achievable tree canopy coverage.

Insufficient landscaped Open Space & Non-compliant width for private open space

Section 2.2.1 in Part C2 of RDCP 2013 requires a minimum of 50% of the site area to be landscaped open space. The development application fails to provide an area calculation plan for landscaped open space. Notwithstanding, the assessing officer's calculations indicate that the landscaped open space is significantly deficient and does not achieve the minimum 50% requirement.

Part 4E of the ADG requires a minimum 3m depth for private open space on the ground floor. The proposed terraces on the ground floor don't have 3m depth and don't comply with the minimum requirements.

At ground level, the insufficient side and rear building setbacks results in insufficient width for the private open space and limited landscaped open space. The constrained layout leaves insufficient unencumbered areas capable of supporting functional private open space that is directly accessible, usable, and adequately landscaped. This results in compromised residential amenity for ground floor units and a poor interface with adjoining properties.

Non-compliant Building Separation Distances & Privacy Impacts

Pursuant to Part 3F-1 of ADG requires the minimum required separation distances from buildings to the side and rear boundaries are as follows:

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

The proposed development proposes the following setbacks from habitable rooms or balconies to boundaries:

- Northern side boundary: 3–6 metres on the lower levels, 3.675-6 meters on L5 and 5.38–6 metres on L6-L7;
- (ii) Southern side boundary: 3–6 metres on the lower levels, 3.75-6 meters on L5 and 5.38–6 metres on L6-L7; and
- (iii) Rear boundary: 4.94-5.71 metres on the ground floor, 6 metres on L1-L5, 8.37-9 metres on L6, and 9m on L7.

The proposed development does not provide adequate separation to its side and rear boundaries. The building potentially limits opportunity for daylight, ventilation, outlook and privacy for both existing and future potential developments on adjoining properties. This is evident in the Proposed Street Elevation Diagram (DA-210-501) and the submitted photomontage, which demonstrate that adjoining sites would be forced to provide increased side setbacks to achieve acceptable building separation, thereby unreasonably burdening their development potential.

The floor plate at Level 4 (the fifth storey) and above should be further reduced to achieve greater separation distances to the side and rear boundaries, consistent with the minimum building separation requirements of the ADG.

The front and rear balconies, which further encroach into the already non-compliant building setbacks, would result in unacceptable visual and acoustic privacy impacts on adjoining properties. Direct and downward views would be available from the proposed balconies into the rear yards and habitable rooms of surrounding dwellings along Church Street and Cook Street, resulting in an unacceptable loss of visual privacy.

The resulting privacy measures, including the use of hit-and-miss brick screening to living room windows at the lower levels, while intended to mitigate privacy impacts, would unacceptably compromise residential amenity by reducing solar access and limiting daylight penetration to living rooms.

Additionally, the inadequate separation between the proposed building and the rear boundary would exacerbate visual impacts on the adjoining St Jude Heritage Conservation Area and the heritage item at 14 Cook Street, resulting in an overly dominant built form when viewed from these sensitive heritage contexts.

Solar Access to the Proposed Development

Part 4A 'Solar and Daylight Access' of ADG requires 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.

The proposed residential layouts do not adequately respond to the site's solar orientation. In particular, the southern-facing apartments fail to receive direct sunlight to living rooms, and the proposal does not achieve the minimum requirement that at least 70% of apartments receive a minimum of two hours of direct sunlight to living rooms and private open space between 9.00am and 3.00pm at mid-winter. This results in poor internal amenity outcomes for future occupants.

Solar Access to Neighbouring Properties

Section 5.1(i) and (ii) under 'Solar access for surrounding development' in Part C2 of RDCP 2013 requires that living areas and at least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight. Further, where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.

The submitted shadow diagrams understate the extent of solar impacts, as the north point is not aligned with true north. Notwithstanding this deficiency, the information available demonstrates that the proposed development would result in unacceptable overshadowing of neighbouring properties, including private open spaces and habitable room windows, and would fail to maintain reasonable levels of solar access for surrounding dwellings.

The proposed development will overshadow the private open space of Nos. 29-35 Church Street and Nos. 14-18 Cook Street, resulting in those areas receiving less than three hours of direct sunlight at mid-winter. It is noted that the private open space located immediately to the rear of the dwelling currently receives ample sunlight.

The proposed development will overshadow the rear (northwest) facing windows of No. 12-18 Cook Street. Elevation shadow diagrams were not submitted and no information has been provided regarding the function of these windows or whether alternate north-facing openings receive adequate sunlight. In the absence of this information, it is assumed that the proposed development would result in an unreasonable loss of solar access to these openings.

The development application has not been accompanied by sufficient information to enable a comprehensive assessment of solar access impacts, particularly due to the lack of elevation shadow diagrams and the lack of details regarding the use and function of neighbouring windows.

Further, the submitted sun-eye view analyses, including the 3D modelling of assumed future development on adjoining properties, rely on unrealistic and unfeasible built forms. The modelling fails to properly account for the sensitive planning context of the area, including the proximity of the St Jude Heritage Conservation Area, the presence of nearby heritage items, and the transitional interface between the LMR Inner Area and the LMR Outer Area. As such, the assumed future development scenarios materially overstate redevelopment potential and cannot be relied upon to discount the solar access impacts of the proposed development.

The proposal results in an adverse impact on the amenity of neighbouring properties and is primarily attributable to the excessive number of storey, insufficient building separation distances, and bulk and massing of the development.

Heritage Conservation

Objective 1(b) of Clause 5.10 of the RLEP 2012 is as follows:

"to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,"

The proposed development fails to satisfy the above objective and relevant controls in RDCP, as detailed in the assessment of Council's Heritage Planner and is not supported.

In summary, the key concerns are:

- Excessive bulk and scale;
- Lack of appropriate rear and upper level setback;
- The impact on the settings and views of the HCA and heritage items

Waste Management

As discussed in detail in the assessment of Council's Development Engineer, the proposal provides inadequate arrangement for waste management and is not supported.

In summary, the key concerns are:

- Private collection is not supported;
- The proposal doesn't provide sufficient bins in accordance with the waste generate rates;
- The use of 1,100L bins is inappropriate;
- The proposed waste storage room is inadequate to accommodate the required number of revised bins and sizes;
- Bulky waste storage area of minimum 15sqm should be provided;
- 3 chutes for the 3 different waste streams should be provided;
- Inefficient design of the two waste rooms being far away from each other;
- Operation of the bin storage is unclear; and
- a diagram detailing where the bins will be presented on the verge for collection is required.

Overdevelopment / Suitability of the Site

Section 4.15(1)(c) of the EP&A Act 1979 requires the consent authority to take into consideration the suitability of the site for the development.

The Applicant has failed to provide a context analysis or design analysis. The proposed development in its current form fails to sensitively respond to the context of the area in terms of scale, massing and amenity impact.

The topography and layout of Church Street at this location presents physical and contextual constraints that limit the development potential of the site. Properties located towards the northern side of Church Street are positioned lower than the subject site and there is a significant fall of approximately 2 metres in ground level between the subject site and No.23 Church Street. As a result, any development on the subject site is visually amplified by the topography, exacerbating its perceived height, bulk and scale.

Further, as discussed in the key issue of desired future character, the adjoining and nearby sites are constrained by heritage controls, strata titled ownership, smaller lot sizes, and the transition between the LMR Inner and Outer Area. The assumptions of future eight-storey development on these sites are unrealistic and the proposal would emerge as a dominant built form rather than part of a cohesive urban outcome.

When considered cumulatively, the site is overdeveloped. The proposal involves an excessive number of storeys and wall height, insufficient upper level street setbacks, with bulk and scale further amplified by the site's topography. These impacts are compounded by insufficient deep soil area and landscaped open space, as well as inadequate parking provision and waste management areas. The resultant development has poor amenity outcomes for both the occupants and adjoining neighbours and would erode the established streetscape character and fail to maintain a human scale.

The proposal, seeking to benefit from the Affordable Housing and LMR provisions of the Housing SEPP, does not sensitively respond to the sensitive context or physical constraints of the site, is inconsistent with the established character of the locality and fails to contribute to the desired future character.

Insufficient Information

Inadequate and inconsistent information has been submitted to enable a proper assessment of the proposed development. This is detailed in the following:

1. Architectural Plans

- North Scale should be directing True North rather than Magnetic North. This should be rectified in all plans.
- Demolition Plan must clearly show property boundaries, trees within neighbouring properties cannot be removed without owners' consent.
- The GFA calculations in the table of DA-770-006 is inconsistent with the diagrams shown in the GFA Calculation Plans. The inconsistencies must be rectified.
- The landscaped area calculation should exclude foyer area and terrace area where covered by upper floors.
- An area calculation plan for Landscaped Open Space in accordance with RDCP definition shall be provided for assessment. The area should comply with the minimum requirements of 50%.
- Deep Soil calculation should be appropriately colour coded.
- 3D height plane shall be submitted for assessment.
- Front fencing location shall align with the front property boundary. Fencing details shall be provided for assessment. The fencing height shall be reduced to maximum 1.8m, provided the upper two-thirds are partially open, except for piers.
- Solar diagrams must use True North rather than Magnetic North and should include impacts on existing and future modelled development on neighbouring properties
- The southern side balcony in U603 on L6 has a width of 0.6m only and shall be removed.
- Inconsistency between architectural drawings and landscape plan - retention of three (3) street trees shown on landscape plan whilst the architectural drawings indicate four (4) street trees.
- Inconsistencies between drawings - GA Sections show basement excavation with side setbacks whereas floor plans show nil setback. This must be rectified.
- Location of air conditioning units shall be identified on plans.
- Parking ventilation details shall be provided.

2. Context Analysis

The development application has not been accompanied by a context analysis demonstrating that comparable development, with equivalent height and density, could be achieved on adjoining or nearby properties while maintaining compliance with the applicable planning controls under the Housing SEPP, ADG, RLEP 2012 and RDCP 2013. This includes, but is not limited to, compliance with requirements for residential layouts, floor space ratio, parking provision, deep soil and landscaped areas, tree canopy coverage, common open space, building separation, visual bulk, privacy, and solar access.

3. Design Analysis

The development application has not been accompanied by a contextual analysis or urban design justification to assess the potential impacts of the proposed storey height exceedance within the character of the locality.

4. View Analyses / Photomontage

The development application is not supported by view analysis or photomontages assessing the impacts on the outlook of rear properties within the St Jude Heritage Conservation Area or the heritage item known as "Federation House" at 14 Cook Street. In the absence of this information, the extent of the proposal's visual and heritage impacts cannot be adequately assessed.

The submitted photomontage is taken from the southern end of Church Street, where the ground level is higher than at the northern end. This vantage point artificially minimises the perceived visual impact of the proposed development due to the underlying topography. To enable a comprehensive and accurate assessment of visual impacts, photomontages should

be provided from directly opposite the site and from the northern end of Church Street, where the proposal would be more prominent.

5. Walking Distance Survey

The submitted SEE referenced a walking distance survey prepared by ISURV to confirm the walking distance between the subject site and Randwick Junction Town Centre in order to determine which are the site sits within the low and mid rise housing policy. However, this document was not submitted for assessment.

6. Geotechnical Report

The proposed development will require boundary to boundary excavation to facilitate the construction of the proposed basement. Excavation will be in the order of 8m depth however no geotechnical investigation has been submitted other than a Soil Absorption Assessment which only investigated water absorption to depths of 0.9m.

This is inadequate and a more thorough investigation of the sub-surface conditions is warranted to assess the likely impacts on neighbouring buildings given the large depth of excavation that will be required.

7. Acoustic Report

An Acoustic Report is required to be prepared by a suitably qualified and experienced consultant in Acoustics and be submitted to Council prior to determination of the application. The acoustic assessment and report is to be completed in accordance with the NSW Environmental Protection Guidelines, including the Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance) and relevant Australian Standards. The report is to include (but not be limited) to;

- Noise emissions from all plant and equipment within the subject development (e.g. mechanical ventilation systems, refrigeration equipment etc).
- ii. Noise emissions arising from the use and operation of the proposed development (including associated activities which may generate noise).
- iii. Noise emission into the proposed development from the surrounding environment.
- iv. Interior acoustic privacy (in accordance with Council's Development Control Plan);

8. Market Analysis

A market study on the demands and projected future demographic trends is required to demonstrate the suitability of the proposed apartment mix noting that nil apartment is proposed for single person households.

9. Fire Engineering Report

The BCA report identifies multiple non-compliances reliant on unspecified engineering performance solutions. Without details, it is uncertain whether implementing such solutions would significantly alter the design, further increasing visual bulk and exacerbating adverse impacts on neighbouring properties.

10. Conclusion

That the application for demolition of existing buildings/structures, tree removal and construction of an 8-storey residential flat building comprising 27 apartments (2 x 2-bedroom and 25 x 3-bedroom) and 2 levels of basement parking containing 35 car parking spaces, associated ancillary and landscaping works be refused for the reasons listed in the recommendation section.

Appendix 1: Referrals

1. External Referral Comments:

1.1. Design Excellence Advisory Panel

Randwick Design Excellence Advisory Panel Final Endorsed Comments



DA INFORMATION	
Application Number	DA/1205/2025
Address	25-27 Church Street Randwick
Meeting Date	22 January 2026
Panel Members	Vishal Lakhia, Tom Rivard
Report Date	27 January 2026

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 & RECOMMENDATIONS

The Panel thanks the applicant for providing a high-quality submission including the architectural drawings, 3D views, photomontages, design report and the DEAP presentation at the meeting.

Principle 1 – Context and Neighbourhood Character

1. Site Isolation (Planning Principle):

- a. The Panel raised concern regarding potential site isolation of the adjoining property to the north at 21–23 Church Street. In the Panel's view, this adjoining property will be constrained from achieving its redevelopment potential if developed in isolation.
- b. The applicant is required to demonstrate, through 3D massing diagrams and typical floor plans and typical basement plans, whether the adjoining site could reasonably achieve comparable floor space ratio, height, gross floor area and a functional basement car park arrangement.
- c. If this cannot be demonstrated, the Panel recommends consideration be given to site amalgamation to enable a consolidated development outcome that delivers improved urban design, built form and amenity outcomes for the urban block.

2. Upper Level Setback:

- a. The Panel considered the proposal within the evolving planning context of Randwick, noting the introduction of higher-density built form under the Low Mid-Rise Housing and Transport Oriented Development provisions. While the Panel acknowledges that new building typologies are being introduced in established urban areas, it emphasises that new development must respond sensitively to existing neighbourhood character and adjoining sites.
- b. A four to five storey building base with upper level setbacks is supported in principle. However, the Panel considers that the distinction between the building base and upper levels should be more pronounced. Greater differentiation is recommended to be achieved through architectural composition, articulation, materiality and texture to clearly express the hierarchy between lower and upper built form elements and to better respond to the established streetscape (and to productively respond to Council's Draft DCP criteria).

Principle 2 – Built Form and Scale

1. ADG Part 3F and Building Separation to Side Boundaries:

- a. The Panel recognises constrained building separation distances along the side boundaries which appear to be below the ADG Part 3F benchmarks of 6 metres for the lower levels (levels 1 to 4) and 9m for upper levels (levels 4 to 8). As a result, the development potentially limits opportunity for daylight, ventilation, outlook and privacy for both existing and future potential developments on adjoining properties along the side boundaries.
- b. While strict numerical compliance with the ADG Part 3F is not endorsed, the Panel emphasises that the objectives of the ADG must be met and further design-based improvements must be demonstrated. The Panel recommends architecture-led solutions such as increased building indentations, blinkered windows and refined articulation rather than primary reliance on privacy screens or highlight windows.

2. Extent of Basement Footprint:

- a. The Panel is unconvinced with the current basement footprint as it limits opportunities for planting within side boundaries and raises concern regarding the viability of neighbouring structures during construction.
- b. The Panel recommends reconfiguration of the basement envelope to enable deep soil pockets capable of supporting a mix of shrubs and small, medium and large canopy trees. These landscape buffers should enhance outlook for apartments, provide meaningful separation between buildings and improve overall residential amenity.

3. Other Built Form Matters:

- a. The Panel also recommends that **bicycle parking** be relocated to a more accessible and legible position to encourage active transport use and improve safety and convenience for residents.
- b. The **electrical substation** should be reduced in scale where possible and integrated as a design-led element rather than an engineering-driven outcome, to improve streetscape quality.
- c. The Panel reviewed apartment layouts and identified opportunities for improvement. The **common corridor** lacks access to daylight and natural ventilation, contrary to ADG objectives
- d. The Panel raised concern regarding the **open lift shaft** proposed at rooftop level, noting potential risks associated with rain ingress, downdraft and water management. These issues require further investigation and resolution through detailed design. Consider provision of a canopy sufficiently protecting the lift door/s.

Principle 3 – Density

1. The applicant should demonstrate consistency with the recommendations offered in this report and the objectives and criteria of the ADG, to gain the Panel's support on Principle 3 – Density.
2. If the applicant seeks to maximise height and FSR benefits, the Panel recommends reconsideration of site amalgamation with adjoining properties, at a minimum incorporating 21–23 Church Street, to achieve a more efficient and equitable distribution of massing and improved overall design outcomes.

Principle 4 – Sustainability

1. Council should satisfy itself that the following sustainability recommendations for delivering beyond the minimum BASIX requirements are incorporated by the applicant:
 - a. Ceiling fans to all living rooms and bedrooms as a low energy alternative, with any possible increases in coverage for natural ventilation to take advantage of the site's location and prevailing breezes.
 - b. Development of a systems-based approach to managing rainwater, stormwater, and water required for irrigation, such that harvested and treated water for use in toilets, laundries and the landscape is optimised. The applicant is particularly encouraged to explore green infrastructure approaches to the OSD requirement.
 - c. Inclusion of an appropriate photovoltaic system to power common areas within the building.
 - d. Full electrification including provision for EV charging points within the basement carpark, and consideration of future electrical demand loads against the proposed sub-station capacity.

Principle 5 – Landscape

1. Rooftop communal open space is supported in principle; however, it should be supplemented with appropriate shelter and amenity including a non-permeable roof over areas like the BBQ, a unisex accessible toilet, lockable storage and a kitchenette, to ensure functional and equitable use.
2. The Panel recommends that the applicant develop detailed landscape design documentation, including exploration of additional opportunities for planting on structures such as rooftops, terraces, and building edges.
3. Revised documentation should include 1:20 landscape design intent sections confirming adequate soil depths for all planting on structures.
4. Additionally, the applicant should provide clarity on how irrigation, maintenance, and green waste removal will be managed from all planting on structures during life of the project.

Principle 6 – Amenity

1. Residential layouts are heavily mirrored and do not adequately respond to solar orientation. As a result, criteria within Part 4A Solar Access of the ADG is not sufficiently met for 70% of apartments with direct solar access to both living rooms and balconies in mid-winter.
2. On typical levels, two of the four southern apartments do not receive direct sunlight to living rooms. The Panel recommends reconfiguring layouts to prioritise living rooms to building perimeters where possible, improving solar access and internal amenity.
3. The Panel also noted inefficiencies in larger three-bedroom apartments, with excessive circulation space and limited functional living room configuration. Living spaces should be reviewed to ensure practical furniture layouts, including provision for TV credenzas.

4. The Panel recommends investigation into whether Unit 3 could be provided with a direct and individual street entry to enhance diversity and activation.

Principle 7 – Safety

No discussion

Principle 8 – Housing Diversity and Social Interaction

1. Revised architectural drawings should confirm layouts of both – pre and post adaptable layouts. The applicant should ensure that the extent of changes between pre and post adaptation avoid structural and plumbing amendments.

Principle 9 – Aesthetics

1. With the revised scheme, developed architectural drawings should fully describe the design intent and include details of each primary façade type in the form of 1:20 sections and elevations (or using appropriate detailed 3D design material) indicating proposed materials, construction systems, balustrade types and fixings, balcony edges, window operation, integrated landscape planter beds, junctions, rainwater and balcony drainage, including any downpipes and similar details within the proposal. Typical wall details to be developed to meet NCC2022 requirements.
2. Of particular concern are the horizontal projecting fins on the upper levels, which would seem to introduce potential maintenance and cleaning issues – consideration should be given to drainage, silt collection and staining of light-coloured facades below.
3. Revised architectural drawings, 3D views and photomontages should confirm locations of A/C condensers and similar mechanical equipment. These should not be located within balconies (unless thoughtfully screened or integrated with architectural elements) or anywhere visible from the surrounding public domain.

CONCLUSION

1. The Panel commends the quality of the architectural material presented and supports the proposal in principle, subject to the matters outlined in this report being satisfactorily addressed. In particular, the Panel considers that further work is required to resolve the below matters to ensure consistency with the objectives and criteria of the NSW ADG:
 - a. site isolation outcomes,
 - b. building separation to side boundaries,
 - c. basement extent,
 - d. landscape provision, and
 - e. apartment amenity (mainly solar access)
2. Subject to the applicant responding to the Panel's recommendations through revised architectural, landscape and urban design documentation, including further testing of site amalgamation scenarios, the Panel considers the proposal has the potential to achieve a more resolved and appropriate outcome for this location.

1.2. Ausgrid



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

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

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

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

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

Ausgrid Underground Cables are in the vicinity of the development.

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Before You Dig Australia (BYDA)

In addition to BYDA the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground levels change above Ausgrid's underground cables in areas such as footpaths and driveways, Ausgrid must be notified, and written approval provided prior to the works commencing.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

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Ausgrid Overhead Powerlines are in the vicinity of the development.

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

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

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

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

New Driveways - Proximity to Existing Poles

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

New or modified connection

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

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

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

Regards,
Ausgrid Development Team

1.3. Sydney Airport Corporation



D7/26

Reg No.: 26/0130

Wednesday, 11 February 2026

To: RANDWICK CITY COUNCIL & NSW PLANNING
PORTAL

Notice to Proponent of Property Development

Dear Sir / Madam,

Application for approval of a controlled activity pursuant to:

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

Proposed Activity: PROPERTY DEVELOPMENT
Location: 25-27 CHURCH STREET RANDWICK
Proponent: RANDWICK CITY COUNCIL & NSW
PLANNING PORTAL
Date: 11/02/2026

Sydney Airport received the above application from you.

The application sought approval for the PROPERTY DEVELOPMENT to a height of 96.00 metres Australian Height Datum (AHD).

In my capacity as Airspace Protection Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 96.00 metres AHD.

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

Sydney Airport

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

SYD Classification: Confidential

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

Should the height of any temporary structure and/or equipment be greater than 0.00 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

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

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

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

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

The height of the prescribed airspace at this location is 120.00 metres above AHD.

Planning for Aircraft Noise and Public Safety Zones:

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

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

Sincerely,



Robert King
Airspace Protection Manager

Sydney Airport

Note:

1. a person who conducts a controlled activity otherwise than with an approval commits an offence against the Act.
 - s. 183 and s. 185 Airports Act 1996.
 - Penalty: 250 penalty units.
2. if a structure is not authorised, the Federal Court may order a person to carry out remedial works, mark or light, or reduce the height of or demolish, dismantle or remove a structure.

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Sydney Airport

- 3 -

SYD Classification: Confidential

Attachment A**Application for Approval of Crane Operation****[Sections s.182, 183, Airports Act 1996]****[Airports (Protection of Airspace) Regulations 1996 – Reg 7]**

TO: Sydney Airport Corporation Ltd

c/- Airport Design Services
Locked Bag 5000
Sydney International Airport
NSW 2020
Email: airspaceprotection@syd.com.au

Application pursuant to airport (protection of airspace) regulations reg 7:

- a) Pursuant to s. 183 of the *Airports Act 1996* and Reg 7 of the *Airports (Protection of Airspace) Regulations 1996*, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
- b) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- c) The operation must not commence without approval and must only proceed in compliance with any conditions imposed on such approval.
- d) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- e) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- f) The Secretary and the Airport, as applicable, may request further information before determining an application.
- g) The "**Important Notes**" must be read and accepted.
- h) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

CERTIFICATE BY PROPONENT:

Sydney Airport

- 4 -

SYD Classification: Confidential

I certify that the Application for approval is complete to the best of my knowledge.

Dated:

Signature of Proponent:

Title of signatory:

D7/26

Sydney Airport

- 5 -

SYD Classification: Confidential

D7/26

Schedule to Application for Approval of Crane Operation

Information required by the Airports (Protection of Airspace) Reg's – Reg 7:

APPLICANT:.....[Proponent]

Of:

Contact:

Phone:

Email:

1. Description of proposed crane operation:

.....

2. Period of Operation:

fromto.....

3. Days and hours of operation:

days:.....

hours:.....

4. Location:

Address:.....

Mapping Grid of Australia (MGA94) co-ordinates:

.....E

.....N

Sydney Airport

5. Details of crane height

(i) maximum height: metres above ground

(ii) maximum height: metres AHD

(iii) resting crane height: metres AHD

6. Purpose of the crane operation:

.....

7. Reference to relevant Development Application:

Council and DA reference:.....

SAFETY CASE FOR ACTIVITY: The Proponent proposes the following safety case:

.....
.....
.....

Sydney Airport

- 7 -

SYD Classification: Confidential

**IMPORTANT NOTES TO APPLICATION FOR APPROVAL OF CRANE OPERATION
WHICH IS A CONTROLLED ACTIVITY**

[Airports Act 1996]

[Airports (Protection of Airspace) Regulations 1996]

1. Section 182: defines "controlled activities" – includes intrusions by cranes into prescribed airspace.
2. Section 187: if a controlled activity is carried out without approval, or is carried out otherwise than in accordance with an approval, the Federal Court may order a person to carry out remedial work on a building, structure or thing; to mark it or light it or both; to reduce its height.
3. Section 183: a person who carries out a controlled activity without the approval of the Secretary or Airport commits an offence against section 183 of the Act.
 - a) Penalty: 250 penalty units for each such offence.
4. Regulation 8: a building authority that receives a proposal for a building activity that, if undertaken, would constitute a controlled activity in relation to an airport must give notice of the proposal to the airport
 - a) Penalty: 50 penalty units for each such offence.
5. If the activity is a short term activity (less than 3 months), the Airport will determine the application pursuant to delegated authority from the Secretary.
6. If the activity is a long term activity (greater than 3 months), the Secretary will determine the application.
7. If the activity is a long term intrusion into PANS-OPS, the application will not be approved. [Reg 9].
8. The Airport will give notice of the application to, and invite submissions from, the Civil Aviation Safety Authority of Australia (CASA) and Airservices Australia. [Reg 10].
9. Upon receipt of submissions from CASA and Airservices, the Airport will refer the application and any submissions from CASA and Airservices, as well as the Airport, to the Secretary, or will determine the application itself if it is a short term activity. The Secretary or the Airport will notify you in writing of their decision.
10. Neither the Secretary or the Airport will approve any activity if CASA advises that carrying out the activity would have an unacceptable effect on the safety of existing or future air transport operations into or out of the Airport. [Reg14(6)].

Sydney Airport

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SYD Classification: Confidential

1.4.

Sydney Water

5 December 2025

Our reference: N/A

Ivy Zhang

Randwick City Council

ivy.zhang@randwick.nsw.gov.au**RE: Development Application DA/1205/2025 at 25-27 Church Street, Randwick**

Thank you for notifying Sydney Water of DA/1205/2025 at 25-27 Church Street, Randwick, which proposes the demolition of existing structures and construction of an eight-storey low and mid-rise affordable housing residential flat building comprising 27 apartments and two 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.

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

D7/26

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.

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)

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



Attachment 1 – Recommended Development Conditions

Prior to the issue of an Occupation/Subdivision Certificate:

Section 73 Compliance Certificate

A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Our assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to our mains. 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



2. Internal Referral Comments:

2.1. Heritage planner

Comments

1. *It is acknowledged that the development proposal's bulk and scale rely heavily on LMR provisions, however, it should have carefully considered its immediate context and impact on the HCA, Heritage and contributory buildings.*
2. *With the proposed scale and bulk and lack of appropriate rear and upper-level setbacks the proposed development will be highly visible from Cook Street and have irreversible adverse visual impact on settings and views of the HCA, Heritage and contributory buildings.*
3. *At its current scheme the proposal cannot be supported from a heritage perspective.*

Reason -

The development proposal is inconsistent with

- a. *the Objective 1(b) of Clause 5.10 of the RLEP 2012 [Development is] to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

and

- b. *the following RDCP 2023 objectives and controls*
 - *Any new development adjacent to or in the vicinity of a heritage item or heritage conservation area needs to be considered for its likely effect on heritage significance and setting (Section 1.12 Part B2 Heritage RDCP 2023)*
 - *Any new proposal/infill must ensure that scale and form of the development is consistent with the predominant scale and form of the heritage conservation area and of adjacent heritage items and contributory buildings (Section 2.3 Objective 2 Part B2 Heritage RDCP 2023)*
 - *Any new proposal/infill must ensure the integrity of the heritage item and its setting, or the heritage conservation area is retained by the careful siting of new buildings and alterations and additions to existing buildings (Section 2.4 Objective 3 Part B2 Heritage RDCP 2023)*
 - *Development must respect side setbacks and rear alignments or setbacks of surrounding development Front and rear setbacks should be adequate to ensure the retention of the existing landscape character of the heritage item or conservation area and important landscape features (Section 2.4 Controls (ii) and (iii) Part B2 Heritage RDCP 2023)*

In order to minimise the impact on the HCA and heritage and contributory buildings and demonstrate compliance with RLEP 2012 and RDCP 2023 it is recommended to

1. *Maintain the exiting rear setback pattern or significantly increase the proposed rear setback to provide a more appropriate visual/building separation to the HCA and heritage and contributory buildings*
2. *Consider gradual height transitions and greater upper-level setback between the new/infill development and the HCA, heritage and contributory items.*
3. *A four storey presentation is considered to be the most appropriate outcome complemented with greater rear and upper-level setbacks and sympathetic bulk and scale, materiality and articulation.*

Recommendation

Please request for amended drawings. The proposal should carefully consider the building’s context and views and settings of the HCA, heritage and contributory buildings.

2.2. Development Engineer

The application is not supported due to the parking and waste issues outlined below and is recommended for refusal in its present form.

PARKING ISSUES

The proposed development contains 27 dwellings comprising of 2 x 2-bedroom dwelling and 25 x 3-bedroom units

Parking Requirements 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,

It is indicated that 5 of the units (2 x 2-bedroom + 3 x 3-bedroom) are intended to be dedicated as Affordable Housing

Parking required (Affordable Housing component) = (2 x 0.5)2B + (3 X 1.0)3B
= 4 spaces

Parking required (Market Housing component) = (22 X 1.5)3B
= 33 spaces

TOTAL PARKING REQUIRED = 37 spaces
Parking Provided = 35 spaces

Parking Shortfall = 2 spaces

It should be noted that the Housing SEPP is silent on visitor parking and it is noted the site is located within an area experiencing a high demand for on-street parking.

Under Part B7 of the DCP the 27-unit development would generate a minimum of 6 visitor spaces and it is considered these should be provided on site given the lack of available on-street parking in the immediate locality

REVISED TOTAL PARKING REQUIRED = 43 spaces (including 6 visitor spaces)

PARKING PROVIDED = 35 spaces

PARKING SHORTFALL = 8 spaces (19%)

The parking shortfall is excessive and is not supported for the following reasons;

- The development already receives generous discounts on parking due to the dedication of 5 units to Affordable housing.

- *The site is located with a locality that is experiencing a very high demand for on-street parking especially in the evening.*
- *25 of the proposed 27 dwellings are 3-bedroom dwellings and may generate a higher parking demand.*

WASTE MANAGEMENT ISSUES

The Waste Management Plan submitted with the application is unacceptable and the waste management arrangements are not supported for the following reasons:

- *Private collection of residential waste is not supported. Council is obliged under the provisions of S496 of the Local Government Act to collect residential waste and will charge a levy accordingly. All waste management facilities must therefore be designed to accommodate Council's standard Waste Bin sizes and collection frequencies. This has not been achieved.*
- *Council's current standard waste collection frequencies are*
 - *Once per week for normal garbage (red lid)*
 - *Once per fortnight for recycling (yellow lid)*
 - *Once per week for FOGO (green lid)*
- *The WMP has not adopted the correct Waste generation rates as specified in Part b6 of the DCP and Council's Waste Management Guidelines. The correct rates are*

Garbage – 120L per unit per week

Recycling – 60L per unit per week

In addition, since introduction of FOGO in 2021 Council is adopting the following rate for FOGO waste.

FOGO - 25L per week for 2-bedroom unit, 50L per week for 3 bedroom unit

Based on the above rates the proposed development will generate the following amount of waste and subsequent bin requirement

- *Normal waste = 27 x 120 = 3240L = 13.5 = say 14 x 240L bins or 5 x 660L bins weekly collection*
- *Recycling = 27 x 60 x 2 = 3240 = 13.5 = say 14 x 240L bins or 5 x 660L bins collected fortnightly*
- *FOGO = 2 x 25L + 25 x 50L = 1300L = 5.4 = say 6 x 240L bins collected weekly*
- *The use of 1100L lite bins is inappropriate and the submitted Waste Management Plan states the large heavy bins will be transported kerbside via a bin tug by caretaker. This is likely to be problematic. The site frontage on Church St is not flat and is sloped at approximately 8.5% fall to the north hence the 1100L bins must rely on brakes for stability and control.*
- *660L bins are not available for FOGO. Only 240L bin size is available.*
- *The proposed waste storage room/s will not be adequate to accommodate the required number of revised bin numbers and sizes. This shall be reviewed*

Only one bin chute is shown which is not acceptable. The development will require the formal provision of 3 chutes for the 3 different waste streams (garbage, recycling & FOGO). E diversion chutes will not be accepted.

- *The internal width of the bin chute on the architectural plans (1.45m) does not appear to match the dimension specified in Appendix C of the Waste management plans (1.57m)*

- *No area for the exclusive storage of bulky waste has been indicated on the architectural plans as required by Council's Waste management Guidelines. An area amounting to a minimum of 15m² is required for storage of bulky waste prior to collection days.*
- *The WMP must be amended to reflect the above required amendments and also include a diagram detailing where the bins will be presented on the verge for collection.*

Geotechnical Issues

The proposed development will require boundary to boundary excavation to facilitate the construction of the proposed basement. Excavation will be in the order of 8m depth however no geotechnical investigation has been submitted other than a Soil Absorption Assessment which only investigation water absorption to depths of only 0.9m

This is inadequate and a more thorough investigation of the sub-surface conditions is warranted to assess the likely impacts on neighbouring buildings given the large depth of excavation that will be required.

2.3. Landscape Officer

Tree Management Comments

The site inspection of 14/01/26 revealed the findings of the submitted Arborist Report, in that there is a row of semi-established trees along Council's Church Street verge, across the full width of the development site, which are all automatically protected by the DCP due to their location on public property, and as group, provide a contribution to the streetscape, which would assist with integration of this new, larger development into the area.

*They comprise firstly, from north to south, a 5m tall *Eucalyptus robusta* (Swamp Mahogany, Tree A in the Arboricultural Impact Assessment by Lee Hancock dated 03/10/25, 'the Arborist Report'), which is closest to the existing layback, crossing and internal garage of no.25, then closer to the kerb, a 4m tall *Lophostemon confertus* (Brush Box, Tree B) and lastly, another 4-5m tall *Eucalyptus robusta* (Swamp Mahogany, Tree C) closest to the pedestrian gate, which are only in fair health and condition due to repeated lopping and topping of their crowns away from the roadway, driveway, public footpath and overhead wires.*

The plans show a new sub-station being installed in the northwest site corner, which then prevents the new crossing and basement ramp being able to be maintained in the same location, along the northern boundary, and subsequently forces it to be located further uphill, to the south, in direct conflict with all three of these street trees.

The only alternative to avoid removing street trees A-C would be to relocate both the access and ramp to the southern side of the site; however, this would still then impact the other three street trees in this area (as described below), and as these public assets are smaller in size, are more likely to have better prospects of being managed around the overhead wires and providing long-term amenity, and on this basis, conditions agree to the removal of Street Trees A-C, by Council, wholly at the applicant's cost.

*Still on the verge, but now in front of no.27, adjacent its northern boundary is a 4m tall *Cupaniopsis anacardioides* (Tuckeroo, Tree D), then near the pedestrian gate, a smaller *Banksia serrata* (Saw Toothed Banksia, Tree E) and a 4m tall *Lophostemon confertus* (Brush Box, Tree F).*

As described above, the new sub-station, vehicle access and basement ramp will all be positioned over the opposite, northern side of the site, so while these external and civil works will be well clear of these trees, given the scope of works being proposed, protection conditions and a bond are still warranted and have been imposed to prevent damage from trucks, deliveries and similar.

*While there is no established vegetation within the front setback of the development site, no.25, there are numerous specimens at the rear, but as none are significant in any way, approval for their removal has been included as shown and sought, including a 5m tall *Murraya* (Tree 1), a 5m tall *Laurus nobilis* (Bay Tree, T2), a smaller *Citrus* (T3), a 4m tall *Leptospermum patersonii* (Lemon*

Scented Tea Tree, T4), a *Callistemon viminalis* (Bottlebrush, T5), two *Murraya*'s (T6), a 4m tall *Melaleuca squarrosa* (Scented Paperbark, T7), a *Schefflera arboricola* (Dwarf Umbrella, T8) and another *Murraya* (T9), with the Landscape plans showing that suitable replacements will be provided in their place around the perimeter of this area.

Now progressing into the front setback of no.27, there are two small 4-5m tall *Lagerstroemia indica* (Crepe Myrtles, T1-2) being one each on either side of the existing pedestrian entrance/gate, along with a similarly sized *Frangipani* (T3) and two, 6-7m tall *Archontophoenix cunninghamiana* (Bangalow Palms, T4-5), which can all be removed due to a combination of their small size and direct conflict with the new footprint, with the relevant consent for this provided in the report, along with those around the perimeter of the rear setback, being then a 7m tall *Eucalyptus* species (Gum, T8), an 8m tall *Ficus benjamina* 'Variegata' (Fig, T9) and two *Cactus* (T10-11), due to the proximity of major civil works associated with the two new Basement Levels in these same areas.

Lastly, beyond the rear/northeast corner of this existing dwelling is a 15m tall *Araucaria columnaris* (Cooks Pine, T12) which despite being the most established specimen assessed for this application is in poor condition due to its multiple (5), competing leaders emerging from a common point about 3-4m above ground level, presumably as a result of past topping, storm damage or similar, which has reduces its safety rating, suitability for retention and lifespan overall, even irrespective of this application and works, given this species natural form is for apical dominance with one central leader.

All aspects and levels of this new footprint will occupy this same part of the site, and due to a combination of its central location, size of the tree and the resulting exclusion zones required, means its retention would not be possible in this situation as the setbacks for any re-design would have a major effect on the success and layout of the whole proposal, so on this basis, conditions grant consent for its removal, as shown on the plans and recommended in the Arborist Report.

The assessment has identified an issue in that there is group of established specimens located wholly in the side setback of the adjoining private property to the south, no.29, at a higher ground level, against the dividing fence, being *Murraya* (T6) and *Syzygium leuhmannii* (Lilly Pillies, T7) of good health and condition which currently perform a screening and privacy function for both properties by acting as a buffer and reducing overlooking, which would be even more valuable upon completion of this development given that the new building will both encroach closer to the common boundary/trees, as well as be much taller in height.

Relevant site features include a 1-1.5m tall masonry retaining wall within the development site, offset from, but parallel to, the southern boundary, which supports the differences in ground level here (where the trees are growing being higher), with it assumed that the northern sides of their root plates would have grown into this area, up to and against the wall.

While the upper floor levels have been suitably setback from the boundary and trees in this area, the plans show the existing wall being demolished, whereupon excavations will be performed to lower the existing ground levels, then piling will be constructed along this common boundary for the southern wall of the basement, right up onto the common boundary, against the northern sides of their trunks, and within their SRZ's, meaning that any root material that exists below surface level, as well as any overhanging branches, would all need to be completely removed to facilitate operation of the piling rig in this area.

Both Council and the applicant have a common law responsibility to ensure these trees are not impacted in any way by these works, with the Arborist Report simply stating that they 'will not be affected and are to be retained', with the Tree Protection Specification (TPS) recommending a Hold Point where demolition within TPZ's must be supervised by a Project Arborist.

However, serious concerns are held for the impact these works would have on the northern aspects of their root plates and crowns, as the amount involved is beyond what they could safely sustain, and given the extent of the basement up the boundary in this area as is currently shown, this means that once construction commences, there is then no scope at that stage to re-design the works to retain roots and ensure preservation of the trees.

Given the critical nature of these threats, the Arborist Report is not deemed to have adequately assessed and addressed the components discussed above, with additional site investigations and reporting needing to be provided, prior to granting consent, so the applicant can demonstrate exactly how these works will be performed without compromising these trees.

While conditions have been included in this report requiring root mapping and reporting, for the review and approval of Council's Officer, prior to the issue of a Construction Certificate, where any amendments to the current design will also need to be incorporated; realistically, such a report is required prior to the granting of consent, to ensure an accurate assessment and informed decision making, as is detailed in the Issues Memo of 15/01/26 (D05954253).

Landscape Plan Comments

The submitted scheme shows the required level of detail and treatment for a development of this size and type; however, conditions require several amendments given that large canopy trees which can attain mature dimensions of 15m x 12m have been proposed within restricted/limited soil volume (only 3m in width), due to proximity of the new basement walls and building elevations, which is likely to affect their future success, and as such, will need to be replaced with alternative species which are more appropriate for the space available both above and below ground.

It is noted that this may then affect Tree Canopy Coverage requirements as specified in the LMR Guide; however, compliance can still be achieved by planting more trees of a smaller mature size.

The applicant also needs to provide a written description in the form of a Maintenance Specification or similar detailing how the podium planters on the balconies of the private units at Levels 1-5 will be accessed for the purpose of routine maintenance activities, including details such as the use of anchor/harness points and similar.

Any amendments that are needed to be consistent with what is required in the 'Protection of neighbours trees' condition and resulting Arborist Report will also need to be incorporated.

2.4. Environmental Health Officer

Comments:

In order to assess the existing and potential noise sources and emissions from the proposed development, and potential impact upon the amenity of the locality, an Acoustic Report should be provided to Council for assessment.

Recommendation:

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

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

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

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

- Noise emissions from all plant and equipment within the subject development (e.g. mechanical ventilation systems, refrigeration equipment etc).*
- Noise emissions arising from the use and operation of the proposed development (including associated activities which may generate noise).*
- Noise emission into the proposed development from the surrounding environment.*
- Interior acoustic privacy (in accordance with Council's Development Control Plan);*

Appendix 2: Applicant's Written Request Seeking to Justify the Contravention of the Number of Storeys Development Standard

D7/26



**CLAUSE 4.6 VARIATION REQUEST TO
STOREY HEIGHT DEVELOPMENT STANDARD
PURSUANT TO SECTION 175(2) OF THE SEPP
(HOUSING) 2021**

25-27 Church Street, Randwick

Demolition of the existing structures and construction of an 8-storey low and mid rise (LMR) affordable housing residential flat building comprising 27 apartments (2 x 2-bedroom and 25 x 3-bedroom) and 2 levels of basement parking for 35 parking spaces

PREPARED BY

ABC PLANNING PTY LTD

OCTOBER 2025

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PO BOX 6081, Malabar, NSW 2036 ■ ABN 99 090 382 488

**CLAUSE 4.6 VARIATION REQUEST TO STOREY HEIGHT DEVELOPMENT STANDARD
PURSUANT TO SECTION 175(2) OF SEPP (HOUSING) 2021**

This Clause 4.6 variation request has been prepared to accompany the development application (DA) for the demolition of the existing structures and construction of an 8-storey low and mid rise (LMR) affordable housing residential flat building comprising 27 apartments (2 x 2-bedroom and 25 x 3-bedroom) and 2 levels of basement parking for 35 parking spaces at No.s 25-27 Church Street, Randwick.

The site is zoned R3 Medium Density Residential under the provisions of the *Randwick Local Environmental Plan 2012* (RLEP).

The proposal includes the following works:

- Amalgamating the two sites
- Demolishing the existing dwellings and associated structures on the site
- Constructing an 8-storey LMR affordable housing residential flat building comprising:
 - 2 levels of basement parking for a total of 35 parking spaces (including 3 accessible parking spaces and 4 visitor parking spaces), 2 motorbike spaces and 18 bicycle spaces
 - Total of 27 apartments on Ground Level to Level 7, comprising 2 x 2-bedroom apartments and 25 x 3-bedroom apartments
 - Store rooms in the basement levels
 - Waste rooms in the Basement Level 1
 - Substation in the north-western front corner of the site
 - Plant rooms in Basement Level 1, Ground Floor and Rooftop
 - Driveway at the northern end of the site leading from Church Street to Basement Level 1
 - Pedestrian path leading from Church Street to the communal lobby on the Ground Floor
 - Rooftop communal open space
 - Lifts and stairs to each level of the building
 - Landscaping around the perimeter of the building on the Ground Level and planter landscaping on Level 1 to Level 5, and the rooftop

The proposal results in a non-compliance with Section 175(2) of the *State Environmental Planning Policy 2021* (Housing SEPP), which relates to storey height. As such, this Clause 4.6 variation request has been prepared in accordance with Clause 4.6 of the RLEP 2012:

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows—
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.
- Note—
The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).
- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) (Repealed)
- (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 6.27(4),
 - (cb), (cc) (Repealed)
 - (cd) clause 6.31.

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 of the storey height development standard and provides an assessment of the relevant matters in Clause 4.6 of the RLEP 2012.

This Clause 4.6 variation request demonstrates that compliance with the development standard relating to storey 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 RLEP 2012. This Clause 4.6 variation request also demonstrates that the proposed development will be consistent with the objectives of the storey height development standard and the zoning of the site.

Development Standard to be Varied

Chapter 6 - Low and Mid Rise Housing of the Housing SEPP applies to the proposed residential flat building development on the site zoned R3 Medium Density Residential. The subject site is located in a LMR housing inner area, being approximately 265m walking distance from Maroubra Junction Town Centre.

Pursuant to Section 175(2) of Chapter 6 of the Housing SEPP, the site is subject to a maximum storey height of **6 storeys**.

The proposal comprises an 8-storey residential flat building representing a variation to the storey height development standard.

Justification for Contravention of the Development Standard

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

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

5-Part test

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

The 5-Part Test is summarised as follows:

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

- 1. objectives of the development standard are achieved notwithstanding the non-compliance**
2. *underlying objective or purpose is not relevant to the development*

3. underlying objective or purpose would be defeated or thwarted if compliance was required
4. development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard
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 storey height control, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table.

Consistency with the objectives of the development standard in the Housing SEPP	
Objectives	Assessment
<p>Chapter 6 Low and mid rise housing</p> <p>162 Aim of chapter</p> <p><i>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.</i></p>	<p>The non-compliant storey height facilitates the provision of an LMR affordable housing residential flat building in a well-serviced location that is in close proximity to public transport, services and public open space. The subject site is located less than 400m walking distance to Randwick Town Centre.</p>
Consistency with the objectives of the R3 Medium Density Residential zone	
Objectives	Assessment
<ul style="list-style-type: none"> • To provide for the housing needs of the community within a medium density residential environment. • To provide a variety of housing types within a medium density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to 	<p>The site is zoned R3 Medium Density Residential under the provisions of RLEP 2012.</p> <p>The proposed storey height variation does not raise any inconsistency with the ability of the proposal to achieve the objectives of the R3 Medium Density Residential zone.</p> <p>The proposal is consistent with the objectives of the R3 zone as follows:</p> <ul style="list-style-type: none"> • Despite the storey height variation, the proposal will provide improved housing choice and affordability in proximity to nearby services and facilities within a medium-density residential environment where housing is in demand.

<p><i>the desired future character of the area.</i></p> <ul style="list-style-type: none"> • <i>To protect the amenity of residents.</i> • <i>To encourage housing affordability.</i> • <i>To enable small-scale business uses in existing commercial buildings.</i> 	<ul style="list-style-type: none"> • The non-compliant storey height facilitates the provision of additional affordable housing on the site in a well-serviced location. • The subject site is located in a low and mid-rise housing inner area, pursuant to Chapter 6 of the Housing SEPP. The site is thereby located in an area undergoing transition. The proposed height and scale are consistent with that contemplated by Chapter 2 – Affordable Housing of the Housing SEPP (Sections 16(1) and Section 16(3)) and will therefore contribute to the desired future character of the area. • The non-compliant storey height will not unreasonably impact the amenity of neighbouring properties and the streetscape in terms of overshadowing, privacy and view loss, noting that the proposal complies with the building height and FSR development standards. <p>Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the storey height variation.</p>
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Compliance with the development standard is unreasonable and unnecessary as the proposed storey height and bulk are of an appropriate form and scale and are compatible with surrounding development and the desired future character for the locality, and meet 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 storey height development standard include:

- Pursuant to Section 180(2)(b) of Chapter 6 of the Housing SEPP, the site is subject to a maximum storey height of 22m. The proposal includes infill affordable housing. As such, Chapter 2 – Affordable Housing of the Housing SEPP applies to the proposed development. Section 16(3) of Chapter 2 of the Housing SEPP permits a 30% uplift

above the base storey height for affordable housing, thereby allowing for a storey height of 28.6m. Therefore, despite the storey height non-compliance, the proposed 8-storey LMR affordable housing residential flat building is in correlation with the allowable building height of 28.6m.

- The proposed storey height non-compliance, which correlates to the building height development standard, is compatible with the desired future character of the locality, which is undergoing transition.
- The upper levels of the building are recessed, and each level of the building is articulated with balconies, privacy screens, idents, and a range of materials and finishes, to minimise the perceived bulk and scale impacts when viewed from the surroundings of the site.
- The proposed development, inclusive of the storey height non-compliance, allows the provision of a diversity of housing types (a mix of 2-bedroom and 3-bedroom apartments), including affordable housing, which will assist in meeting the NSW Government housing targets for the Eastern City District and Randwick Council. The State Government has introduced the Low and mid rise housing policy whilst also allowing for affordable housing to be provided in addition to the height and FSR standards under the LMR provisions. This signals a clear intent to provide increased density in well serviced locations. The State Government also did not impose minimum lot size or lot width requirements, which is also considered to confirm that the proposed form of development is consistent with that anticipated by the newly introduced Policies.
- The proposed development, inclusive of the building height variation (storeys), will not have an unreasonable impact on views from the public domain or surrounding properties.
- As demonstrated in the Elevation Shadow Diagram (Dwg No. DA-790-002) submitted with this DA, the proposed storey height non-compliance will not result in additional overshadowing of the adjoining property to the south at No. 29 Church Street compared to a development that complies with the RLEP 12m building height control and the RDCP 2.5m side setback control, if No. 27 Church St were developed independently. The additional overshadowing of the adjoining lots to the south and east is associated with a built form (building height and FSR) that is compliant with Sections 16(1) and 16(3) of the Housing SEPP. In this regard, the overshadowing resulting from the proposed development is consistent with the emerging character of the medium-density residential area, in accordance with Chapter 6 Low and Mid Rise Housing of the Housing SEPP.
- Notwithstanding the variation to the storey height control, the proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represent 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).

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Clause 4.6 Variation (Storey Height)

25-27 Church Street, Randwick

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 storey height variation in this instance.

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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))
- delivery and maintenance of affordable housing (Section 1.3(d))
- protect the environment (Section 1.3(e))
- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3 (g))
- proper construction and maintenance of buildings, including the protection of the health and safety of their occupants (Section 1.3(h))

The proposed development will be in the public interest because it is consistent with the objectives of the storey height development standard under Section 175(2) of the Housing SEPP.

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at No.s 25-27 Church Street, Randwick and is requested to be looked upon favourably by the consent authority.

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Appendix 3: ADG Compliance Table

Clause	Design Criteria	Proposal	Compliance												
Part 3: Siting the Development															
3C-1	Public Domain Interface														
	<p>Ground terrace with direct public domain access.</p> <p>Ground terraces to include level change from public domain.</p> <p>Front fences and walls along street frontages should use visually permeable materials and treatments. Solid fences / walls up to 1m.</p> <p>Planted edges to terraces recommended.</p> <p>Mailboxes should be located in lobbies, perpendicular to the street alignment.</p> <p>Services located away from public domain.</p>	<p>Ground terrace does not have direct access from public domain due to setback, appropriate</p> <p>yes</p> <p>solid fences up to 0.9m, open fencing above the walls, fencing details to be provided</p> <p>Planter box to the outer edge of the rear balconies on L1 – L5, planter on L1 along northern side setback in the front</p> <p>Mailboxes located in the lobby, adjoining front entrance to building.</p> <p>Services located in B1 and lobby. Waste room in B1.</p>	Yes.												
3D-1	Communal and Public Open Space														
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	A rooftop terrace has been provided. COS on rooftop = 360sqm / 30%	Yes.												
	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.												
3E-1	Deep Soil														
	<p>Deep soil zones are to meet the following requirements:</p> <p>Site Area:</p> <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Site Area</th> <th>Min. Dimension</th> <th>Deep Soil Zone (% site)</th> </tr> </thead> <tbody> <tr> <td>< 650m²</td> <td>-</td> <td>7%</td> </tr> <tr> <td>650–1,500m²</td> <td>3m</td> <td>7%</td> </tr> <tr> <td>>1,500m²</td> <td>6m</td> <td>7%</td> </tr> </tbody> </table>	Site Area	Min. Dimension	Deep Soil Zone (% site)	< 650m ²	-	7%	650–1,500m ²	3m	7%	>1,500m ²	6m	7%	<p>Proposed = 91.17sqm / 7.7%</p> <p>All located at the rear</p> <p>Applicant to indicate their calculations.</p>	No, refer to the key issues section.
Site Area	Min. Dimension	Deep Soil Zone (% site)													
< 650m ²	-	7%													
650–1,500m ²	3m	7%													
>1,500m ²	6m	7%													

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Clause	Design Criteria	Proposal	Compliance												
	<p>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</p> <ul style="list-style-type: none"> • 10% of the site as deep soil on sites with an area of 650m² - 1,500m² • 15% of the site as deep soil on sites greater than 1,500m² 														
3F-1	Visual Privacy														
	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="344 631 847 1034"> <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 measuring privacy separation distances between neighbouring properties</p>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Northern side = 1.8-6m on GF, 3-6m on L1-L4, 3.675-6m on L5, 5.38-6m on L6-L7</p> <p>Southern side = 3-6m on GF-L4, 3.75-6m on L5, 5.38-6m on L6-L7</p> <p>Rear (East) = 4.94-5.71m on GF, 6m on L1 -L5 (planters encroach in setback zone) 8.37-9m on L6, 9m on L7</p>	<p>No, refer to the key issues section.</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													
3J-1	Bicycle and Car Parking														
	<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>	<p>Residents car parking is considered under the affordable housing section of the Housing SEPP.</p> <p>Guide to Traffic Generating Developments requires 1 visitor space per 7 dwellings.</p> <p>Required visitor spaces = 4 spaces Proposed visitor spaces =4 spaces</p>	<p>N/A.</p>												
Part 4: Designing the Building															
4A	Solar and Daylight Access														

Clause	Design Criteria	Proposal	Compliance
	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 calculation = 88.9% However, solar diagrams inaccurate - True North shall be used rather than Magnetic North. The southern facing units on L1-L4 were shown to be comply, which appears incorrect as the living area will not achieve the minimum 2 hours direct sunlight.	No, refer to the key issues section.
	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.
4B	Natural Ventilation		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	100% of the 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.	Apartment depth does not exceed this.	Yes.
4C	Ceiling Heights		
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> • Habitable Rooms – 2.7m • Non-habitable – 2.4m • Attic spaces – 1.8m at edge with min 30 degree ceiling slope • Mixed use areas – 3.3m for ground and first floor These minimums do not preclude higher ceilings if desired	Habitable rooms have a minimum ceiling height of 2.9m.	Yes.
4D	Apartment Size and Layout		
	Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> • Studio - 35m² • 1 bedroom - 50m² • 2 bedroom - 70m² • 3 bedroom - 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each	All apartments meet the size requirements.	Yes.

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Clause	Design Criteria	Proposal	Compliance															
	A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m ² each																	
	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	Habitable room depths do not exceed this.	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 ² and other bedrooms 9m ² (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.															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	Living rooms meet this size requirement.	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.															
4E	Private Open Space																	
	All apartments are required to have primary balconies as follows: <table border="1" data-bbox="347 1227 847 1422" 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 m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m²</td> <td>2.4m</td> </tr> </tbody> </table> The minimum balcony depth to be counted as contributing to the balcony area is 1m	Dwelling type	Minimum area	Minimum depth	Studio	4 m ²	-	1 bedroom	8 m ²	2m	2 bedroom	10 m ²	2m	3+ bedroom	12 m ²	2.4m	2-beds are at least 10m ² and 2m deep. 3-beds are at least 12m ² and 2.4m deep.	Yes.
Dwelling type	Minimum area	Minimum depth																
Studio	4 m ²	-																
1 bedroom	8 m ²	2m																
2 bedroom	10 m ²	2m																
3+ bedroom	12 m ²	2.4m																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	Ground floor terraces don't have 3m min depth.	No, refer to the key issues section.															
4F	Common Circulation and Spaces																	
	The maximum number of apartments off a circulation core on a single level is eight	Each level contains three (3) – four (4) apartments.	Yes.															
4G	Storage																	
	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> • Studio apartments - 4m³ • 1 bedroom apartments - 6m³ 	Compliant storage is provided for each unit as part of the basement common area and within units.	Yes.															

Clause	Design Criteria	Proposal	Compliance
	<ul style="list-style-type: none"> • 2 bedroom apartments - 8m³ • 3+ bedroom apartments - 10m³ <p>At least 50% of the required storage is to be located within the apartment</p>		
4H	Acoustic Privacy		
	Interface design to preserve amenity.	Complies	Yes.
4K	Apartment Mix		
	A variety of apartment types is provided.	Mix of 2-bed and 3-bed. Market analyses to be provided.	No.
4L	Ground Floor Apartments		
	<p>Direct access to ground floor apartment.</p> <p>Private open space next to street.</p> <p>Terrace elevated above street level and landscape incorporated.</p> <p>Solar access maximized by high ceilings.</p>	GF apartment 003 doesn't have direct access from the public domain.	No.
4O	Landscape Design		
	Appropriate tree and shrub selection based on size at maturity and root systems.	The deep soil area is inadequate to accommodate the proposed species.	No, refer to the assessment by Council's Landscape Officer.

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Appendix 4: DCP Compliance Table

3.1 Section B6: Recycling and Waste Management

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
4.	On-Going Operation		
	(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, however not sufficient to accommodate the required number of bins and sizes	No, refer to the assessment by Council's Development Engineer.
	(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 easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).	3 bin chutes should be provided for the 3 different waste streams (garbage, recycling & FOGO).	No, refer to the assessment by Council's Development Engineer.
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	Not shown in plans, however each unit is able to accommodate this space.	Yes.
	(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)
3.	Parking & Service Delivery Requirements		
	Car parking requirements: <ul style="list-style-type: none"> • 1space per 2 studios • 1 space per 1-bedroom unit (over 40m2) • 1.2 spaces per 2-bedroom unit • 1.5 spaces per 3 or more bedroom unit • 1 visitor space per 4 dwellings 	The Housing SEPP rate is used.	N/A.
	Motor cycle requirements:	Required = 2 spaces	Yes.

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	5% of car parking requirement	Proposed = 2 spaces	
4.	Bicycles		
	Residents: <ul style="list-style-type: none"> 1 bike space per 2 units Visitors: <ul style="list-style-type: none"> 1 per 10 units 	Required = 17 spaces Proposed = 18 spaces	Yes.

3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
2.	Site Planning		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (284.55m ²) is to be landscaped open space.	Approximately 335m ² / 28% provided.	No, refer to the key issues section.
2.3	Private and communal open space		
2.3.1	Private open space		
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	All units have private open space, however the ground floor POS does not comply with the minimum width required under ADG.	No, refer to the key issues section.
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well orientated 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.	One contiguous roof terrace. Well orientated for solar access. Landscaping is sufficient. Shade structures provided, however no weather protection for the lift shaft.	No.
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	The building depths are 28m on the lower five levels and 24m on the upper three levels, which don't comply. Poor internal amenity including insufficient solar access has been provided	No.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
		to the southern apartments.	
3.4	Setbacks		
3.4.1	Front setback		
	<p>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>	<p>3.4m – 4.5m on GF, 3.6-4.5m on L1-L4, 3.6-6m on L5, 5.38-6m on L6-L7.</p> <p>Greater front setback required for upper levels to provide greater distinction and respond to the established streetscape.</p> <p>Much of the frontage is taken up by the driveway and pedestrian entrance. The fire boosters are within the frontage. The substation shall be minimized in size as much as possible.</p> <p>There is landscape planting, however Council's landscape officer is not satisfied.</p>	No.
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below: - 20m and above: 4m</p> <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the 	This is considered under ADG.	N/A

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>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>		
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater.	This is considered under ADG.	N/A
4. Building Design			
4.1 Building façade			
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</p> <p>(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>	<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>The facades do not contribute to the proportions or the visual character of the street.</p>	No, refer to the key issues section.
4.2 Roof design			
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise</p>	<p>The flat roof facilitating the roof top communal open space is different to the surrounding character.</p> <p>The proposed development presents a height that is noticeably greater than the surrounding built form. However, the rooftop terrace is set back further than the lower levels and is articulated with continuous planter boxes along its perimeter. These design measures reduce</p>	No.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, “green roof”) is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>	<p>the perceived bulk at roof level and effectively limit direct sightlines into adjoining properties, thereby mitigating potential privacy impacts.</p> <p>However, the impacts of future similar developments have not been investigated by the applicant.</p>	
4.4	External wall height and ceiling height		
	(i) Where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.	The wall height is 17.5m.	No, refer to the key issues section.
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	All habitable rooms exceed the minimum 2.7m ceiling height.	Yes.
4.5	Pedestrian Entry		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.</p> <p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>	<p>Separate entries provided.</p> <p>The entrance gate is identifiable.</p> <p>No direct entries for ground floor units are provided.</p> <p>Mailboxes within the lobby.</p> <p>Weather protection provided to the foyer area.</p>	<p>Yes.</p> <p>No.</p>
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. 	<p>No natural light or ventilation to the lobby.</p> <p>2.4m wide corridor.</p> <p>Adequate space for movement of furniture.</p> <p>Corridor lengths are short.</p>	<p>No.</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 		
4.7	Apartment layout		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. <p>Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.</p>	<p>All apartments have a minimum of two aspects.</p> <p>Windows to all habitable rooms.</p>	Yes.
	<p>(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.</p>	<p>Details to be provided to demonstrate this.</p>	Unclear.
	<p>(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.</p>	<p>Balconies and terraces for every apartment.</p>	Yes.
	<p>(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.</p>	<p>Proper kitchen locations.</p>	Yes.
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass 	<p>Schedule of colours and finishes submitted.</p> <p>Nil objection from DEAP or heritage planner on the materials and finishes.</p>	Yes.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>		
4.12	Earthworks Excavation and backfilling		
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	<p>Up to 7.76m of excavation is proposed to boundaries.</p> <p>Has not been suitably justified.</p>	<p>No, refer to the key issues section.</p>
	<p>Retaining walls</p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	<p>The walls to the basement are not setback from the side boundaries.</p>	<p>No, refer to the key issues section.</p>
5. Amenity			
5.1	Solar access and overshadowing		
	Solar access for surrounding development		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<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>Non-compliant</p> <p>Greater impact than shown as the North Scale is not directed towards True North.</p> <p><u>Impact on No.29-35</u> POS receiving sunlight from 9am-11am, overshadowed from 12pm onwards</p> <p>Shadow to bathroom and bedroom windows only at 2pm and 3pm</p> <p>North facing windows of no.29 completely overshadowed</p> <p><u>Impact on 6-12 Cook St</u> POS overshadowed in the afternoon, however still receiving 3hrs from 10am-1pm</p> <p>Rear windows receive 3hrs sunlight from 11am-2pm to 6-10 Cook St</p> <p>Rear windows receive 2hrs sunlight from 11am-1pm to 12 Cook St, elevation shadow diagrams to be submitted</p> <p><u>Impact on 14-18 Cook St</u> Receiving sunlight from 10am-12pm in POS</p> <p>Rear windows receive 2hrs from 11am to 1pm</p>	<p>No, refer to the key issues section.</p>
5.2	Natural ventilation and energy efficiency		
	<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>Habitable rooms contain windows.</p>	<p>Yes.</p>
	<p>(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.</p>	<p>Unclear what the sun shading devices are.</p>	<p>Unclear.</p>
	<p>(iii) All habitable rooms must incorporate windows opening to outdoor areas.</p>	<p>Habitable rooms contain window openings (window</p>	<p>Yes.</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.</p>	<p>schedule shows that these are operable).</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>All habitable rooms will have ventilation.</p>	<p>Yes.</p>
	<p>(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.</p>	<p>All units are cross ventilated.</p>	<p>Yes.</p>
	<p>(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.</p>	<p>3 out of 10 are adjacent to openable windows or near a private door.</p>	<p>Yes</p>
	<p>(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.</p>	<p>N/A</p>	<p>N/A.</p>
5.3	Visual privacy		
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings 	<p>Balconies are orientated to the front and the rear, direct sightlines into surrounding properties rear yards.</p> <p>The proposal does not provide adequate separation distances.</p> <p>The hit and miss privacy walls on the lower levels will block light and solar access into the living rooms.</p> <p>Nil privacy measures on upper levels. Lack of consideration of future developments on adjoining properties.</p>	<p>No, see the key issues section.</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 		
5.4	Acoustic privacy		
	<ul style="list-style-type: none"> (i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	<p>Raised as a concern by Environmental Health Officer.</p>	<p>Yes.</p>
5.5	View sharing		
	<ul style="list-style-type: none"> (i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (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. 	<p>No significant view loss is anticipated from the proposal.</p>	<p>Yes.</p>
5.6	Safety and security		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(i) Design buildings and spaces for safe and secure access to and within the development.	Safe and secure access provided.	Yes.
	(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.	Appropriate ventilation and safety.	Yes
	(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.	Details to be provided.	Unclear.
	(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.
	(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.
6. Car parking and access			
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	No secondary street or laneway available. Access from Church Street.	Yes.
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	Appropriate location of car parking and access facilities.	Yes.
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide	More than 6m from the side boundary, and	Yes.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	landscape planting within the setback areas.	landscaping within side setback.	
	(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.	Yes.
6.2	Configuration		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	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 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.	No natural ventilation. Overall ventilation is unclear. 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.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as:</p> <ul style="list-style-type: none"> - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain. 		
7. Fencing and Ancillary Development			
7.1	Fencing		
	<p>(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering.</p> <p>(ii) Sandstone fencing must not be rendered and painted.</p> <p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials <p>(i) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>	Brick and metal palisade fence.	Yes.
7.2	Front Fencing		
	(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 and setback from the front boundary.	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.	Front fencing to a maximum height of 2m proposed, with solid portion not exceeding 0.9m.	No.
	(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:	Not proposed or applicable.	N/A.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. <p>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>		
	(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.	Stepped in accordance with the topography.	Yes.
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	The fencing comprises of bricks and metal palisades.	Yes.
	(vii) Gates must not open over public land.	Fencing is setback from the front boundary. No encroachments on public land.	Yes.
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	Fencing is setback from the front boundary.	Yes.
7.3	Side and Rear Fencing		
	<ul style="list-style-type: none"> (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. 	Fencing less than 2.2m high above existing ground level along side and rear boundaries.	Yes.
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Clothes lines provided on the rooftop.	Yes.
	(ii) Provide internal laundry for each dwelling unit.	Each unit has a laundry	Yes.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(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 service balconies for clothes drying. Communal drying area provided on the rooftop.	Merit assessment.
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> Avoid installing within window frames. If installed in balconies, screen by suitable balustrades. Air conditioning units must not be installed within window frames. 	Unclear where these will be located.	Unclear.

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Responsible officer: Ivy Zhang, Senior Environmental Planning Officer

File Reference: DA/1205/2025

Development Application Report No. D8/26

Subject: 57 Hannan Street, Maroubra (DA/1302/2025)

Executive Summary

Proposal:	Demolition of existing building/structures and construction of a part-8 and part-9 storey residential flat building comprising 8 apartments (2 x 2-bedroom and 6 x 3-bedroom) and basement parking for 10 parking spaces, associated ancillary and landscaping works.
Ward:	Central Ward
Applicant:	Mr D Pireh
Owner:	Zeebrr Pty Ltd
Cost of works:	\$2,989,939.00
Reason for referral:	The development contravenes the development standard for number of storeys by more than 10%; the development is subject to Chapter 4 'Design of residential apartment development' of the Housing SEPP 2021 as the proposed development is for the erection of a new building that is 3 or more storeys and contains at least 4 dwellings; and 14 unique submissions by way of objection were received.

Recommendation

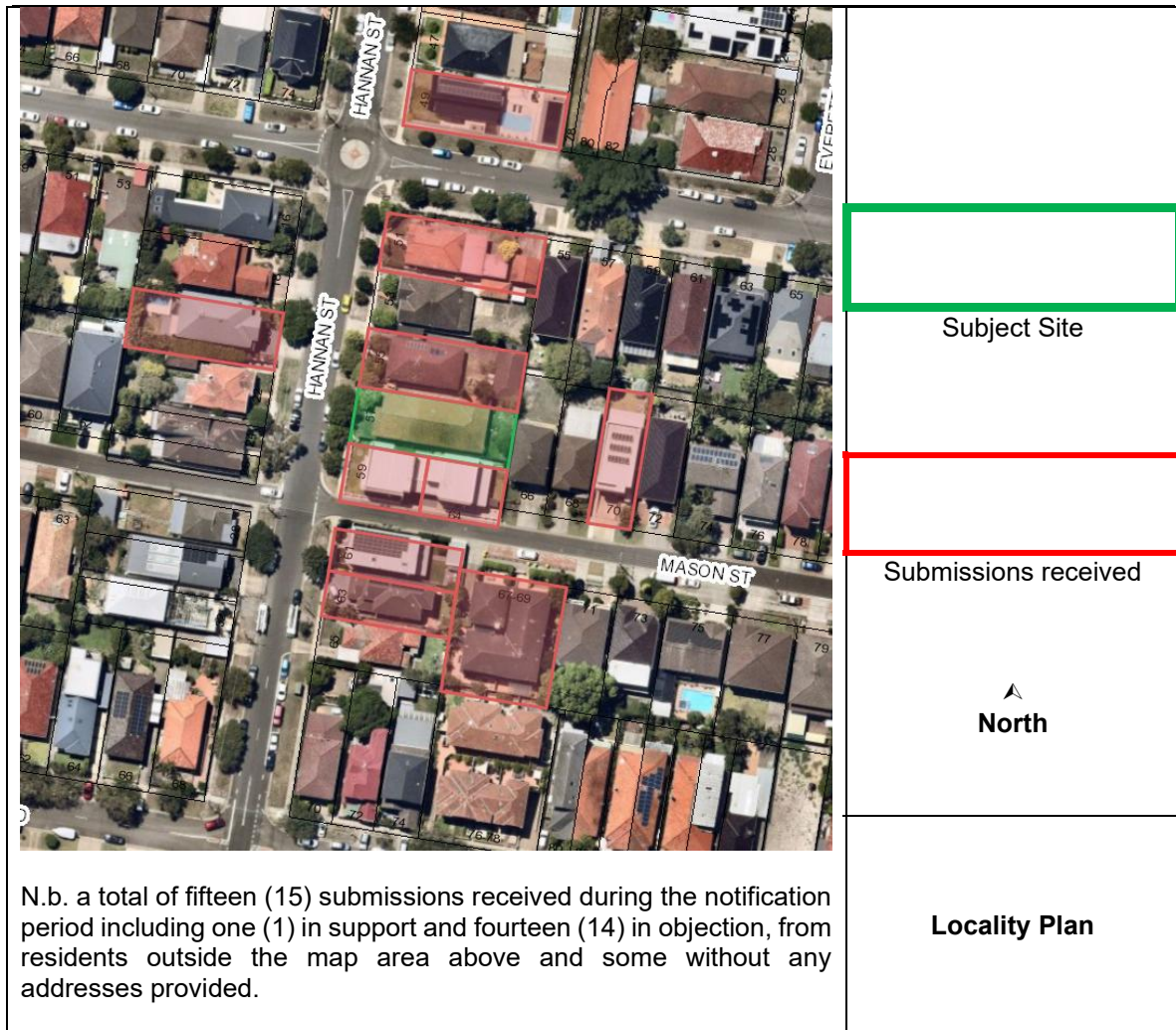
That the RLPP refuses consent under Section 4.16 of the *Environmental Planning and Assessment Act 1979*, as amended, to Development Application No. DA/1302/2025 for demolition of existing building/structures and construction of a part-8 and part-9 storey residential flat building comprising 8 apartments (2 x 2-bedroom and 6 x 3-bedroom) and basement parking for 10 parking spaces, associated ancillary and landscaping works, at No. 57 Hannan Street, Maroubra NSW 2035, 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 Residential Zone in that it does not recognise the desirable elements of the existing streetscape and built form, fails to protect the amenity of residents, and does not encourage housing affordability.
2. Pursuant to sections 175(2) of the SEPP (Housing) 2021, the proposed variation to the number of storeys development standard is not supported as 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 20(3) of the SEPP (Housing) 2021, the proposed development is incompatible with the desired future character of the precinct.
4. Pursuant to section 147 of the SEPP (Housing) 2021, the proposed development was not supported by the Randwick Design Advisory Panel in that the quality of the design was inadequate for the proposed building. In addition, the development fails to demonstrate consistency with the following design criteria of the ADG:
 - a. Section 3D 'Communal and Public Open Space'.
 - b. Section 3F 'Visual Privacy'.
 - c. Section 3J 'Bicycle and Car Parking'.
 - d. Section 4A 'Solar and Daylight Access'.
 - e. Section 4B 'Natural Ventilation'.
5. Pursuant to section 177(2) of the SEPP (Housing) 2021, the proposed development does not provide adequate canopy tree coverage on the site.

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6. Pursuant to section 4.6 of the SEPP (Resilience and Hazards) 2021, the applicant has failed to sufficiently demonstrate whether the land is contaminated.
 7. Pursuant to clause 6.2 of RLEP 2012, the proposed development does not adequately ensure that earthworks will not have a detrimental impact on neighbouring uses and features of the surrounding land.
 8. Pursuant to clause 6.4 of RLEP 2012, the proposed development does not adequately address stormwater management, as the proposed location of the infiltration areas do not comply with Council's Private Stormwater code.
 9. Pursuant to clause 6.10 of RLEP 2012, the applicant has failed to sufficiently demonstrate that adequate arrangements have been made for electricity supply to the proposed development.
 10. Pursuant to clause 6.11 of RLEP 2012, the proposed development does not exhibit design excellence.
 11. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal does not comply with the following controls in the Randwick Development Control Plan 2013:
 - a. Part B4: Landscaping and Biodiversity
 - b. Part B7: Transport, Traffic, Parking and Access
 - c. Part C2: Medium Density Residential
 - i. Section 2.3.2 'Communal open space'.
 - ii. Section 3.4 'Setbacks'.
 - iii. Section 4.1 'Building façade'.
 - iv. Section 4.2 'Roof design'.
 - v. Section 4.4 'External wall height and ceiling height'.
 - vi. Section 4.5 'Pedestrian entry'.
 - vii. Section 4.7 'Apartment layout'.
 - viii. Section 4.9 'Colours, materials and finishes'.
 - ix. Section 4.12 'Earthworks'.
 - x. Section 5.1 'Solar access and overshadowing'.
 - xi. Section 5.2 'Natural Ventilation'.
 - xii. Section 5.3 'Visual privacy'.
 - xiii. Section 5.5 'View sharing'.
 - xiv. Section 5.6 'Safety and security'.
 12. Pursuant to section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the suitability of the site for the proposed development as not been adequately demonstrated.
 13. Pursuant to section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.
 14. A full and robust assessment of the proposal cannot be completed as insufficient information has been submitted relating to architectural plan information, photomontages, design analysis, modelling, acoustic report, shadow diagrams, waste management, electricity supply, performance solution report, and contamination.

Attachment/s:

Nil



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1. Executive Summary

This report will assess DA/1302/2025 (*the Application*) for 57 Hannan Street, Maroubra (*the Subject Site*) against the relevant heads of consideration under Section 4.15 of *Environmental Planning & Assessment Act 1979 (the Act)*.

The application seeks consent for demolition of existing building/structures and construction of a part-8 and part-9 storey residential flat building comprising 8 apartments (2 x 2-bedroom and 6 x 3-bedroom) and basement parking for 10 parking spaces, associated ancillary and landscaping works.

The application is referred to the Randwick Local Planning Panel (RLPP) for the following reasons:

- The development contravenes the development standard for number of storeys by more than 10% under the Chapter 6 of the Housing SEPP 2021.
- The development is subject to Chapter 4 ‘Design of residential apartment development’ of the Housing SEPP 2021 as the proposed development is for the erection of a new building that is 3 or more storeys and contains at least 4 dwellings.
- Fourteen (14) unique submissions by way of objection were received.

The proposal seeks to benefit from the recently in-force ‘Low and Mid Rise Housing’ (LMR) provisions of the Housing SEPP that allow for the subject site, being within the inner ‘LMR’ area, to have a building height of 22m (and up to 6 storey) and FSR of 2.2:1, respectively. In addition, the

proposal seeks to use the 'In-fill Affordable Housing' provisions of the Housing SEPP to receive a further building height and FSR bonus in providing floor area for an affordable housing component.

Council notes that on 22 January 2026, the Applicant commenced proceedings in Class 1 of the Land and Environment Court's jurisdiction appealing against the Council's deemed refusal of the development application.

The key issues associated with the proposal relate to desired future character, building envelope, design excellence, residential amenity, parking and basement configuration, and insufficient information. The extent of issues is evident throughout this report, including many jurisdictional matters of consideration that the Applicant has failed to satisfy through their application.

Therefore, the proposal is recommended for refusal.

2. Site Description and Locality

The subject site is legally described as Lot 11 DP 6879 and is known as 57 Hannan Street, Maroubra.

The site is a rectangular parcel of land, with a western boundary fronting Hannan Street of 13.4m, a northern and southern boundary of 36.8m, and a rear eastern boundary of 13.4m, providing a total site area of 494.6m². The site is relatively flat, with rises from west and east by approximately 1.3m (RL 24.9 AHD to RL 26.2 AHD)

The site is currently occupied by a single storey detached dwelling and a tree within the front setback area.

The subject site is located on the eastern side of Hannan Street, between Gale Road to the north and Mason Street to the south. To the northern side of the site is a single storey detached dwelling at No. 55 Hannan Street with a current consent for 2x two storey semi-detached dwellings (DA/695/2025). To the southern side of the site are 2x two storey semi-detached dwellings at No. 59 Hannan Street and 64 Mason Street, respectively. To the east of the site is a 2 storey detached dwelling at No. 55 Gale Road (to the north) and 66 Mason Street (to the south), respectively.

Within the immediate visual catchment of the subject site, the buildings are predominantly 1 and 2 storey dwellings. To the western side of the site on Hannan Street, the road reserve and opposite sites are located within the Zone R2 'Low Density Residential'.

The eastern part of the block of which the site is located within the Maroubra Junction Town Centre to Anzac Parade, which is within Zone E2 'Commercial Centre'. The site is within 400m walking distance of the town centre. As such, it is considered within the 'low and mid rise housing inner area' in accordance with Chapter 6 of the Housing SEPP.



Figure 1: Photo of the subject site (Source: Randwick City Council)

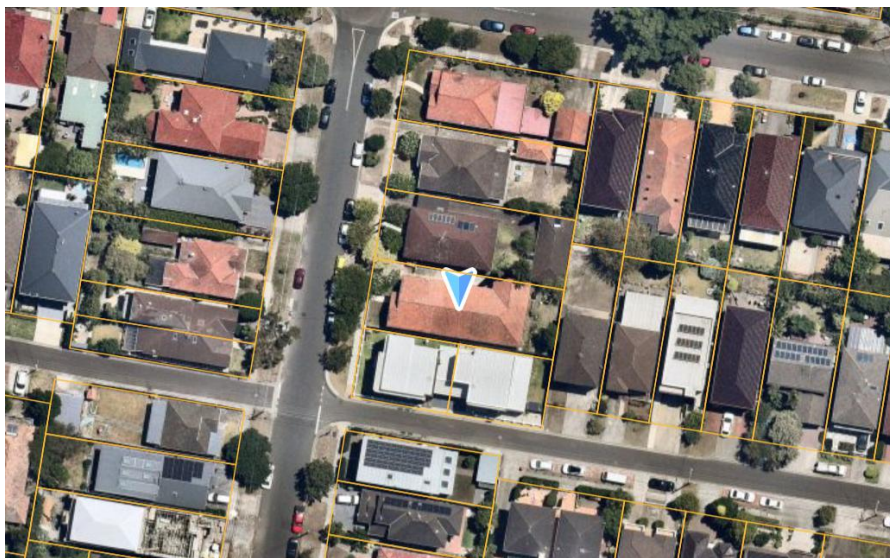


Figure 2: Aerial view of subject site (Source: Nearmap)



Figure 3: Southern oblique view of subject site and surrounding area (Source: Nearmap)

3. Relevant History

Development Consent No. DA/405/2018

On 29 April 2019, Council approved Development Application No. DA/405/2018 seeking consent for the demolition of existing structures, construction of a 3 storey multi-dwelling housing development containing 4 dwellings including 1 affordable rental housing dwelling, basement carparking for 6 vehicles, landscaping and associated works. Amended plans received addressing flooding levels. In accordance with the COVID-19 pandemic response from the NSW Government and the 2 year extension to consents granted before 25 March 2020, the subject consent will expire on the 29 April 2026.

Modification Application No. DA/405/2018/A

On 21 October 2021, Council approved Modification Application No. DA/405/2018/A which sought to modify Development Consent No. DA/405/2018 to the basement layout deleting lift & accessible parking adding storage cages, relocate bin storage to ground level at front adding 2 parking spaces in basement (8 total), & amended access & internal reconfiguration.

Development Consent No. DA/1093/2023

On 19 March 2025, Council refused Development Application No. DA/1093/2023 seeking consent for the demolition of the existing structures and construction of a 3-storey residential flat building comprising three (3) units and basement parking with six (6) car parking spaces.

The reasons for refusal are as follows:

- *The proposed development is of an excessive height and is incompatible with surrounding development and the streetscape, resulting in non-compliance with the height of buildings development standard pursuant to clause 4.3 of RLEP 2012.*
- *The submitted written requests to vary the height of buildings development standard pursuant to clause 4.6 of RLEP 2012 is not considered to be well founded in that it does not sufficiently demonstrate that the proposed non-compliance is unreasonable or unnecessary in the circumstances of the case, nor that there are sufficient environmental planning grounds to justify a variation to the development standard.*
- *The proposal is inconsistent with the objectives of the R3 Medium Density Residential Zone in that it is not compatible with the desired future character of the locality and significantly exceeds the level of built form anticipated for the subject site. The proposed development fails to recognise or reflect the desirable elements of the existing streetscape and built form, which is predominately two storey building heights and a habitable roof form above.*
- *The proposed development will result in unreasonable residential amenity impacts upon neighbouring properties with regard to visual bulk.*
- *Pursuant to R3 zone objective, the proposal will have adverse visual impact on the streetscape character. The streetscape presentation of the proposed development is unsuitable given the context of the site, surrounding development, and the locality.*
- *Pursuant to clause 6.2 of RLEP 2012 and Part C2, Section 4.12 of RDCP 2013, the proposal for an oversized habitable roof level results in excessive and unnecessary excavation works associated with a providing parking for to accommodate excessive floor area for the habitable roof level.*
- *Pursuant to Part C2, Section 2.2 of RDCP 2013, the proposal fails to provide sufficient landscaped open space and deep soil.*
- *Pursuant to Part C2, Section 4.2 of RDCP 2013, the proposal fails to comply with the roof design requirements.*
- *Pursuant to Part C2, Section 4.3 of RDCP 2013, the proposal fails to comply with the Habitable roof space requirements.*
- *Pursuant to Part C2, Section 4.4 of RDCP 2013, the proposal fails to comply with the maximum 8m external wall height requirement and buildability of minimum floor to ceiling heights.*
- *Pursuant to Part C2, Section 5.1 of RDCP 2013, the proposal results in additional overshadowing of the neighbouring property in comparison to a compliant external wall height form.*

- Pursuant to Part C2, Section 5.3 of RDCP 2013, the proposal results in additional visual privacy impact on the neighbouring properties from the excessive rear balcony associated with the proportionally large top level floor area relative to the storey below. The provision of additional privacy measures will result in further adverse visual bulk amenity impacts on the neighbours.
- Pursuant to Part C2, Section 5.4 of RDCP 2013, the proposal results in additional acoustic privacy impact on the neighbouring properties from the large rear balcony associated with the proportionally large top level floor area relative to the storey below. The provision of additional privacy measures will not suitably ameliorate adverse acoustic privacy amenity impacts on the neighbours without significant size and scale added to the top level.
- Pursuant to section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the suitability of the site for the proposed development as not been adequately demonstrated.
- Pursuant to section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest having regard to the numerous non-compliances with relevant planning controls.

Low and Mid-Rise Housing Policy

On 28 February 2025, the NSW Government implemented new reforms to amend the SEPP Housing 2021, that introduces new planning controls to allow terraces, townhouses, mid-rise apartments and shop-top housing within 800 metres of identified town centres and train or light rail stations. This includes the Maroubra Junction town centre.

4. Proposal

Council is in receipt of a development application seeking consent for demolition of existing building/structures and construction of a part-8 and part-9 storey residential flat building comprising 8 apartments (2 x 2-bedroom and 6 x 3-bedroom) and basement parking for 10 parking spaces, associated ancillary and landscaping works.

Specific details of the development application are as follows:

- Site works including demolition of the existing dwelling and associated structures on the site; removal of 1x tree within the front section of the site and other smaller planting within the site.
- Construction of a part eight (8)/nine (9) storey residential flat building consisting of:
 - Basement: 10x vehicle parking spaces including 4x car stackers, 2x motorbike parking spaces, 3x bicycle parking spaces, turntable, storage, waste storage, services, 2x fire staircase, lift access.
 - Ground floor: 1x 3-bedroom market unit, building lobby, building access along the southern boundary, vehicular driveway and crossing via the northern boundary, communal open space at the rear of the site.
 - First to second floor: 1x 3-bedroom affordable housing unit.
 - Third to fourth floor: 1x 3-bedroom market unit.
 - Fifth to sixth floor: 1x 2-bedroom market unit.
 - Seventh/eighth floor: 1x 3-bedroom split-level market unit across both floors

Overall, the development consists of 8x dwellings, being:

- 4 x 3-bedroom market dwellings.
- 2x 3-bedroom affordable housing dwellings, and
- 2 x 2-bedroom market dwellings.

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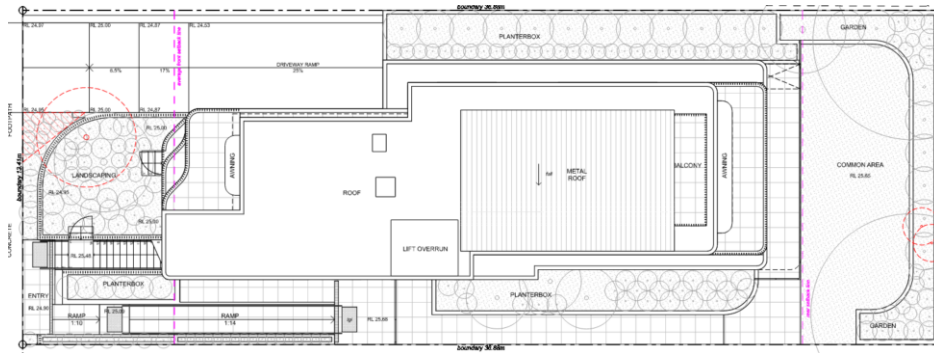


Figure 4: Proposed site/roof plan – 57 Hannan Street Maroubra (Source: Archispectrum)



Figure 5: Proposed ground floor plan – 57 Hannan Street Maroubra (Source: Archispectrum)



Figure 6: Proposed western elevation – 57 Hannan Street Maroubra (Source: Archispectrum)



Figure 7: 3D perspective from Hannan Street – 57 Hannan Street Maroubra (Source: Archispectrum)

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development between 22 May 2025 and 05 June 2025 for 14 days, in accordance with the Randwick Community Engagement Strategy.

A total of fifteen (15) submissions were received during this period. Of this fifteen, fourteen (14) submissions were in objection and one (1) in support, from the following properties:

Objection

- No. 20 Hannan Street.
- No. 49 Hannan Street.
- No. 51 Hannan Street.
- No. 55 Hannan Street.
- No. 59 Hannan Street.
- No. 61 Hannan Street.
- No. 63 Hannan Street.
- No. 64 Mason Street (Lot 59A Hannan Street).
- No. 1/67-69 Mason Street.
- No. 70 Mason Street.
- No. 69 Boyce Road.
- No. 148 Boyce Road.
- No. 111 Storey Street.
- Resident from Amour Avenue.

The submissions by way of objection have been paraphrased and summarised below:

Issue	Comment
<p><u>Streetscape/Character</u> -9 storey development detrimental to streetscape. -Development fails to recognise streetscape which is predominantly single/two storey building heights. -The development does not transition to surrounding lower density residential areas.</p>	<p>Agree, whilst the site is located within the 'low and mid rise inner area', the proposed development does not have a size and scale that is compatible with the desired future character of the locality. See Key Issues for detailed assessment.</p>

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Issue	Comment
<ul style="list-style-type: none"> -The development must respond to current impacts on existing lawful dwelling, not sure future redevelopment/transitional character. -Disagree the site is within the Maroubra business centre. -Not appropriate on a narrow suburban street. -Does not achieve R3 Zone objectives of scale and character. -No other development of this scale in the immediate area, out of character. 	
<p><u>Building Height</u></p> <ul style="list-style-type: none"> -Excessive and incompatible with surrounding development and streetscape. -Will impact upon outlook to the sky, pronounced sense of visual dominance and enclosure. -Variations to height must not be approved as it will set a poor precedent. 	<p>The proposed building height complies with the maximum building height development standard permitted under the 'in-fill affordable housing' and 'low and mid rise housing' planning provisions of the Housing SEPP 2021.</p>
<p><u>Wall Height</u></p> <ul style="list-style-type: none"> -Non-compliance with DCP control. -Wall lengths fail to provide any meaningful height transition, adequate articulation/modulation, compliance with ADG. 	<p>Agreed, the proposed development has an 8 storey street wall and form that is not in keeping with the desired future character of the locality. See Key Issues for detailed assessment.</p>
<p><u>Site Area</u></p> <ul style="list-style-type: none"> -A 9 storey building on a 493.2sqm block is excessive, the site needs to be larger to facilitate such a development. -The proposed is isolated and an anomalous outcome for a development of this scale. -Amalgamation of more than one property is required. 	<p>Agreed, the proposed development does not have a size and scale that is compatible with the desired future character of the locality, in part due to the development on a single lot size of 494.6sqm (as surveyed).</p>
<p><u>Traffic Congestion and Road Capacity</u></p> <ul style="list-style-type: none"> -Has existing congestion issues on Hannan Street. -Streets not designed to accommodate high traffic volumes from development will create further congestion and safety concerns. -The cumulative impact of development like this will impact congestion. -Close proximity to Snape Park, does not account for additional future impact of upgrades and additional visitors to area. -More cars pose safety risks to residents. 	<p>Agreed, the development will result in additional vehicles within the locality. However, as the site is located within the 'low and mid rise inner area' and does not trigger consideration of the traffic-generating development considerations in Chapter 2 of the T&I SEPP 2021, traffic congestion and road capacity are not a matter of consideration of such a development application.</p>
<p><u>On-Street Parking</u></p> <ul style="list-style-type: none"> -Overflow parking will place additional pressure on already limited on-street parking, impacting existing residents. 	<p>Agreed, the development will result in the loss of on-street parking as a result of the new driveway crossing to Hannan Street.</p>
<p><u>Structural and Geotechnical Risks</u></p> <ul style="list-style-type: none"> -Impact to surrounding properties. Excavation, piling, vibration and dewatering may impact neighbours. -Reliance on post consent conditions is not adequate to understand potential impacts. 	<p>Agreed, Council is concerned that the proposed development is not adequately setback from boundaries and that a revised Geotechnical report has failed to be provided.</p>

Issue	Comment
<ul style="list-style-type: none"> -Geotechnical report is dated June 2018, assessed on plans for a two storey residence. -Building is only setback 200mm from the site boundary, not 900mm as required. Concerns about safety of our home. 	
<p><u>Separation/Setbacks</u></p> <ul style="list-style-type: none"> -Upper levels are insufficient to protect neighbour amenity. -ADG compliant separation not achievable as site is not suitable for a nine-storey building. -Non-compliance cannot be justified by site constraints. -DCP compliance does not override the ADG. -Lack of setbacks to all sides of the site result in visual bulk, streetscape, solar and privacy impacts on neighbours. 	<p>Agreed, Council is not satisfied that the proposed development is not adequately setback from side and rear boundaries, and not separated from adjoining sites/building. this results in adverse impact impacts and restraints the development potential of adjoining sites. See Key Issues for a detailed assessment.</p>
<p><u>Basement Parking</u></p> <ul style="list-style-type: none"> -Layout does not address accessibility, manoeuvrability, safety of visitor parking. -Does not minimise visual impact. -The size of each parking space is insufficient for large cars. -Car stackers will not be used/may break down and mean more people parking on the street. -Swept paths will scrape the face of the basement wall. -External walls will be deep/wide and not drawn as such. 	<p>Agreed, Council's Development Engineer has raised concerns regarding the proposed basement parking arrangement. See comments in the Key Issues for a detailed assessment.</p>
<p><u>Inconsistency with Apartment Design Guide</u></p> <ul style="list-style-type: none"> -The ADG Compliance Table is inaccurate and contains many non-compliance with the standards. 	<p>Noted. See Council's ADG Compliance Table assessment table in Appendix 4.</p>
<p><u>Communal Open Space</u></p> <ul style="list-style-type: none"> -Only 15.2% of COS provided (ADG required 25%). Is not appropriate for this site as site not in an urban centre or CBD context, no evidence of usability, amenity or equal access, constraint location on site with poor amenity. 	<p>Agreed, the proposed development does not provide an adequately sized COS for the proposed development. See Key Issues for a detailed assessment.</p>
<p><u>Deep Soil Zone</u></p> <ul style="list-style-type: none"> -No evidence provided to confirm the deep soil zone can support meaningful planting, receives adequate sunlight, contributes to ADG environmental outcomes. 	<p>Agreed, Council's Landscaping Officer has raised concerns regarding the landscaping and drainage systems, which will impact the viability of supporting canopy trees. See comments in Appendix 1 of this report for further details.</p>
<p><u>Residential Amenity Impacts</u></p> <ul style="list-style-type: none"> -The development will impact visual bulk, overshadowing and privacy. -Inconsistent with planning principles related to residential amenity. 	<p>Agreed, the proposed development will result in adverse impacts upon neighbouring dwellings/site in terms of visual amenity, privacy and solar access. See comments in Key Issues section of this report.</p>

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Issue	Comment
<p><u>Solar Impacts</u> -North-facing living room windows and POS will be significantly reduced, in particular, in the winter. -Will overshadow neighbouring roofs and prevent use of solar panels. -Not convinced that 100% of units received 2 hours of solar access on east-west site. -Application lacks solar analysis of neighbouring sites. -The submitted plans do not show Mason Street, impact unclear.</p>	<p>Agreed, the proposed development will result in adverse solar impacts upon neighbouring dwellings/site. The solar diagrams do not show all impacted site and properties. See Key Issues for a detailed assessment.</p> <p>In terms of solar access to the proposed dwellings, Council is concerned that dwellings will not receive adequate solar access as the window treatments to northern windows that fail to comply with BCA separation requirements has not been provided. See Key Issues for further details.</p>
<p><u>Visual Privacy Impacts</u> -Overlooking from balconies and habitable rooms is unavoidable and not acceptable. -Elevated windows and terraces direct overlook adjacent private spaces.</p>	<p>Agreed, the development result in adverse privacy impacts upon neighbouring dwellings/site, from both habitable windows and balconies. See Key Issues for a detailed assessment.</p>
<p><u>Acoustic Privacy Impacts</u> -The building pedestrian access is to the southern side, will result in noise impacts.</p>	<p>The Applicant has failed to provide an Acoustic Report to demonstrate the acoustic impact and how noise impacts will be mitigated.</p>
<p><u>Sydney Airport Corporation</u> -Unsure about the value of Sydney Airport Corporation advice being sought.</p>	<p>The development application is required to be considered by Sydney Airport Corporation as the development will penetrate the Limitation or Operations Surface, in accordance with Section 6.8 of the RLEP 2012. Comments from SAC have been provided, see Appendix 1 for comments.</p>
<p><u>Liveability Impacts</u> -The additional residents from such developments will further diminish liveability and lifestyle due to increase pressure on infrastructure.</p>	<p>The subject site is located within the 'low and mid rise inner area' of the Housing SEPP 2021, of which provisions of the policy do not require consideration of the proximity and impact on local infrastructure and liveability impacts.</p>
<p><u>Precedent</u> -Approval would set an undesirable precedent. A recent 3 storey development was refused by Council on the site.</p>	<p>Noted, however each development is considered on its own merits.</p>
<p><u>Construction Activities and Impacts</u> -The construction would pose impacts including road closure/restrictions, noise and mess.</p>	<p>Noted. Should the development application have been supported, adequate conditions of consent would have been imposed to mitigate construction impacts on the locality.</p>
<p><u>Property Devaluation</u> -Will adversely impact property prices and desirability of surrounding residential properties.</p>	<p>Noted, however not a matter of consideration for evaluating a development application.</p>

Support

- No address provided, 1x submission.

Issue	Comment
<p><u>Support</u> -Such development is needed in Maroubra to bring down prices and make it more affordable. Well located within 800mm of Maroubra Junction, within walking distance of local shops and services.</p>	<p>Noted, however does not support the proposed development for the reasons provided throughout this report and recommends the development application be refused.</p>

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6. Relevant Environment Planning Instruments

6.1. SEPP (Biodiversity and Conservation) 2021

The aims of Chapter 2 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 within the site. The proposed removal is permitted without development consent on the basis that the clearing is ancillary to the proposal and the affected vegetation does not trigger a separate permit and is not a heritage item nor within a heritage conservation area. As such, the proposal achieves the relevant objectives and provisions under Chapter 2. See Appendix 1 for Development Landscaping comments.

6.2. SEPP (Housing) 2021

Chapter 2 ‘Affordable housing’

The development application seeks to use the in-fill affordable housing provisions under Division 1 ‘In-fill affordable housing’ in Part 2 ‘Development for affordable housing’ of Chapter 2 of the Housing SEPP to provide affordable housing by allowing for greater building height and FSR bonuses for development that includes an affordable housing component.

The proposed development largely complies with the numerical development standards in relation to the Affordable Housing Component, Building Height and Floor Space Ratio. See Appendix 3 for a detailed assessment against each relevant clause of the in-fill affordable housing provisions of the Housing SEPP.

Desired Future Character

Section 20(3) outlines that 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.*

Council acknowledges that whilst the area is within a precinct undergoing transition as the site is located within the ‘low and mid rise inner area’ which allows for 6 storey residential flat buildings, the development is incompatible the desired future character of the precinct. See Key Issues for a detailed assessment.

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 involves erection of a new building that is 3 or more storeys and contains at least 4 dwellings.

The proposed development is subject to the provisions of Chapter 4 in that the development is for the purposes of residential flat building, consisting of the erection of a new building that is 9 storey in height and contains 8 dwellings (pursuant to section 144 of the Housing SEPP).

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 DEAP has advised that the proposal needed to be revised to address the desired future character of development in the area, as well as issues relating to scale, setbacks, landscaping, and the external finishes/articulation.

A summary of the issues is noted below with comments addressing each point raised:

Issue	Comment
<p>1. Context and Neighbourhood Character Whilst within the “inner area” of the Low and Mid-Rise provisions, uplift does not negate the requirement to respond appropriately to both existing and foreseeable context.</p> <p>No detailed context analysis was provided. This analysis should clearly inform the site strategy, massing, articulation and landscape approach.</p> <p>The Panel requests more detailed modelling of potential future redevelopment on all adjacent sites, demonstrating likely envelope outcomes under comparable controls.</p> <p>The Panel strongly recommends exploration of consolidation with an adjoining property or alternatively, refine the floor plate and respect the objectives of the ADG around separation and amenity.</p> <p>The building entrance lacks legibility and civic presence. A more resolved ground plane strategy is required.</p>	<p>Agreed, see discussion in the Key Issues.</p> <p>Agreed, the application lacks sufficient detail of contextual analysis.</p> <p>Agreed, the application lacks sufficient modelling of potential future development.</p> <p>Agreed, the applicant should explore consolidation of lots to provide a site with sufficient size and frontage width to justify such a development.</p> <p>Agreed, the street interface is poor and the building entrance should front Hannan Street.</p>
<p>2. Built Form and Scale The Panel does not support the proposed building height or envelope configuration in its current form. Building envelope produces compromised separation, overshadowing and amenity outcomes inconsistent with the</p>	<p>Agreed, scale of development results in adverse impacts on neighbours and not compatible with the desired future character.</p>

Issue	Comment
<p>Housing SEPP Design Quality Principles and ADG Parts 2, 3 and 4.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> • Height: reduce to mitigate overshadowing impacts, provide full shadow diagrams demonstrating impacts under existing and future context scenarios. • Building Separation and Setbacks: increase setbacks to achieve ADG-compliant separation, consider and demonstrate NCC fire separation compliance, consider blank wall impact. • Massing and Articulation: increase stepping above Level 3, further modulate the envelope, revised concept consistent with mid rise typologies and the future character modelling. 	<p>Agreed, impact of overshadowing unclear as existing and future redevelopment.</p> <p>Agreed, greater separation required, further consideration of BCA required, reducing blank wall massing.</p> <p>Agreed, further modulation of upper levels required, greater modelling of future form of LMR area required.</p>
<p>3. Density FSR not supported. Contributes to insufficient building separation, compromised outlook for lower-level apartments, reduced amenity for neighbouring dwellings</p> <p><u>Recommendations</u></p> <ul style="list-style-type: none"> • Reassess density in conjunction with height and separation. • Demonstrate that yield does not compromise amenity outcomes. • Consider reducing gross floor area to enable improved setbacks, communal open space and façade articulation. 	<p>Agreed.</p> <p>Agreed, reductions in floor area from reduced height/greater separation/modulation and articulation required.</p>
<p>4. Sustainability Sustainability and Connecting with Country were not adequately addressed in the submission.</p> <p><u>Recommendations</u></p> <ul style="list-style-type: none"> • Connecting with Country: develop a formal strategy integrated into architectural and landscape design. • Environmental Performance: develop a Sustainability Strategy that considers 100% electric building, EV-ready infrastructure, photovoltaic arrays, green roof systems with rainwater harvesting, NatHERS compliance. • Solar Shading: increase depth of shading to north and west-facing glazing. 	<p>Agreed.</p> <p>Agreed, not provided.</p> <p>Agreed, not provided.</p> <p>Agreed, further refinement required.</p>
<p>5. Landscape</p>	<p>Agreed.</p>

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Issue	Comment
<p>The communal open space (COS) is limited in amenity and future resilience.</p> <p><u>Recommendations</u></p> <ul style="list-style-type: none"> • Ground Level COS: improve acoustic and visual separation from Apartment 1, enhance landscaping • Roof-Level Communal Space: a roof-level communal open space is strongly recommended. • Setbacks and planting: provide a minimum 6m clear front setback free of services and fire stairs, provide minimum 1m wide planted zones to side setbacks • Basement Operation: Submit a traffic and access management strategy addressing, turntable operation, car stackers and tandem parking functionality. 	<p>Agreed, poor size and functionality of COS.</p> <p>Further analysis from applicant required regarding future development and impacts before Council can support rooftop terraces. Agreed, improvements to front setback area required, planting along side setback areas required.</p> <p>Agreed, further traffic analysis required.</p>
<p>6. Amenity</p> <p><u>Recommendations</u></p> <ul style="list-style-type: none"> • Street Address and Entry Experience: improve legibility and spatial generosity of the entry, weather protection and enhanced landscaping. • Solar Access: provide expanded overshadowing analysis including future context. • Outlook and Privacy: increase separation distances, reassess privacy impacts under future development scenarios. • Apartment Design: provide internal room dimensions, review furniture layouts for functionality, provide minimum 3150mm floor-to-floor where balconies are stacked and 3250mm where balconies are not stacked. • Building Services: integrate a services spatial overlay to demonstrate the building certainty, integrate a structural spatial overlay to demonstrate building certainty. 	<p>Agreed, access should be provided to the front façade.</p> <p>Agreed, further analysis required.</p> <p>Agreed, as above.</p> <p>Agreed, further details required.</p> <p>Agreed, further information required to confirm viability and certainty of proposal.</p>
<p>7. Safety</p> <p><u>Recommendations</u></p> <ul style="list-style-type: none"> • Entrance: simplify and rationalise entry transitions. • Fire Services: resolve fire stair egress conflicts, provide two fire stairs from basement level, remove basement egress stair from front setback. • CPTED: apply to all shared spaces. 	<p>Agreed, as above.</p> <p>Agreed, changes and viability of fire services to be confirmed and provided on plans.</p> <p>Agreed, COS and building entrances lack adequate consideration of CPTED principles.</p>

Issue	Comment
<p>8. Housing Diversity and Social Interaction</p> <p><u>Recommendations</u></p> <ul style="list-style-type: none"> • Provide accessible and inclusive street interface. • Deliver required adaptable and liveable dwellings in accordance with policy requirements. 	<p>Agreed.</p> <p>Agreed, lack of information.</p>
<p>9. Aesthetics</p> <p>The façade design requires further refinement to align with ADG Part 4M objectives.</p> <p><u>Recommendations</u></p> <ul style="list-style-type: none"> • Refine grouping of balconies and window composition • Review south elevation which is visually heavy and monolithic. • Reduce reliance on render and lightweight cladding. • Consider durable materials such as precast concrete, face brick or masonry blockwork. 	<p>Agreed.</p> <p>Agreed.</p> <p>Agreed.</p> <p>Agreed.</p> <p>Agreed.</p>

The detailed comments provided by the DEAP are provided in Appendix 1 of this report.

For these reasons, the development application is recommended for refusal.

Design Quality Principles

The comments provided by the DEAP (refer to Appendix 1 of this report) detail how each of the nine quality design principals have been considered in the proposal. Such principles have also been summarised above with comments.

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. See Appendix 4 for the full ADG compliance table.

Council is not satisfied that the development is consistent with the design criteria in the ADG. For this reason, the development application is recommended for refusal.

Chapter 6 ‘Low and mid rise housing’

The development application seeks to use the ‘Low and Mid Rise’ (LMR) housing provisions under Part 4 ‘Residential flat buildings and shop top housing’ of Chapter 6 of the Housing SEPP that allow for greater development controls, which seek to encourage more low and mid-rise housing to be built within 800m walking distance from nominated town centres and transport hubs.

See Appendix 3 for a detailed assessment against each relevant clause of the LMR housing provisions of the Housing SEPP. In addition, consideration of the building envelope is considered under Chapter 2 of the Housing SEPP above.

Number of Storeys

Section 175(2) of the Housing SEPP requires that for residential flat buildings development on land in a low and mid rise housing inner area, development consent must not be granted for a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.

The proposed development consists of a building with 9 storeys.

The proposed development results in a built form that is inconsistent with the character of development in the area and lacks sufficient modulation and articulation to the built form to justify an 8 storey presentation to Hannan Street. See Clause 4.6 Assessment below to consider the variation of the number of storeys being sought.

For these reasons, the development application is recommended for refusal.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 'Remediation of land'

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

Clause 4.6 of SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Council's Environmental Health Officer has reviewed the documentation. The review of the geotechnical investigation (Aargus, 18 June 2018) identifies the presence of near-surface fill comprising sand and concrete (0–0.3 m) and a raised fill area retained by a ~0.7 m wall, indicating that uncontrolled fill may be present across parts of the site. The geotechnical investigation did not include environmental sampling and is not sufficient to confirm the absence of contamination.

Given the proposed basement excavation, there is a low likelihood of historical industrial contamination but a low–moderate risk of localised contamination or asbestos fragments within fill which may impact spoil handling and disposal. As such, a Preliminary Site Contamination Investigation is to be provided. Council notes that the applicant has failed to provide such a report.

In this regard, it is Council's position that the site may not be suitable for the proposed development and poses a potential risk of contamination. Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered to be not suitable for the proposed land use, as proposed due to a lack of adequate information and Clause 4.6 of SEPP (Resilience and Hazards) 2021 has not been satisfied and Council has no jurisdiction authority to approve the application.

As such, the proposed development is recommended for refusal.

6.4. SEPP (Sustainable Buildings) 2022

A BASIX Certificate has been submitted, satisfying the requirements of the *Environmental Planning and Assessment Regulation 2021* and SEPP (Sustainable Buildings) 2022. 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.

6.5. SEPP (Transport and Infrastructure) 2021

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

The proposed works are located within 5m of an exposed overhead electricity power line, located on Hannan Street. As such, the proposal was referred to Ausgrid for comment. See Appendix 1 for the Ausgrid referral which notes that Ausgrid does not object to the proposed development. As such, Clause 2.48 of the Transport and Infrastructure SEPP has been satisfied.

6.6. Randwick Local Environmental Plan 2012 (RLEP 2012)

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 RLEP 2012. See the subject site and the relevant zoning map below:

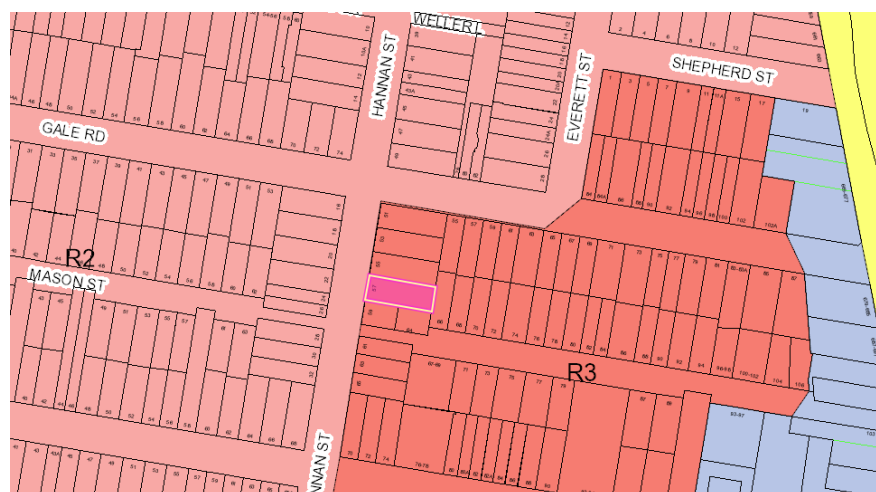


Figure 8: Zoning Map (Source: Randwick City Council)

The proposed development seeks consent for a 'residential flat building', which has the following definition in the Standard Instrument:

“residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.”

A 'residential flat building' is a land use type that is permissible with consent in Zone R3 with Council's consent.

The proposal is inconsistent with the specific objectives of the zone in the following ways:

- The proposed development application does not contribute to the desired future character of the area is providing an 8 storey street wall within a locality of largely 1-2 storey buildings. The Applicant has not demonstrated that the proposed development is compatible with the area undergoing transition and the desired future character for greater densities resultant from the “low and mid rise housing” and “in fill affordable housing” provisions of the Housing SEPP.
- The proposed development application does not protect the amenity of residents in failing to provide sufficient communal open space, sufficient off-street parking, solar access, visual amenity and privacy for both the future occupants of the building and the neighbouring residents.
- The proposed development application does not encourage housing affordability in providing dwellings that are significantly larger than the minimum size requirements for 2 and 3 bedroom dwellings under the ADG, which will have affordability impacts.

Therefore, the proposed development is recommended for refusal.

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

Clause	Development Standard	Proposal	Compliance
Clause 4.3: Building Height (max)	<p>9.5m</p> <p>Chapter 6 of the Housing SEPP for inner LMR area prevails, with a maximum height of 22m and 6 storeys.</p> <p>Furthermore, the development can seek an additional 30% bonus if an appropriate affordable housing component is provided (i.e. a maximum height of 28.6m if 15% AHC provided).</p>	28.4m (to the roof parapet).	Yes, complies
Clause 4.4: Floor Space Ratio (max)	<p>0.75:1</p> <p>Chapter 6 of the Housing SEPP for inner LMR area prevails, with a maximum FSR of 2.2:1.</p> <p>Furthermore, the development can seek an additional 30% bonus if an appropriate affordable housing component is provided (i.e. a maximum height of 2.86:1 if 15% AHC provided).</p>	2:1 (994.1sqm)	Yes, complies

6.6.1. Clause 4.6 - Exceptions to development standards

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

6.6.2. Clause 6.2 – Earthworks

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

Council is concerned that the proposed development seeks to excavate the basement level within 200mm of the northern and southern side boundaries. The submitted Geotechnical Investigation Report, prepared by Aargus (Report No. GS7281-1A, 18th June 2018) is inadequate in considering the submitted development application, its scope of works and potential impacts.

As such, the subject development does not satisfy clause 6.2 and is recommended for refusal.

6.6.3. Clause 6.4 – Stormwater management

Clause 6.4 requires the consent authority to be satisfied that the development in residential and employment zones is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water; includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water; ; avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact; and incorporates, if practicable, water sensitive design principles.

Council is not satisfied that the proposed development will adequately address stormwater management, as the proposed location of the infiltration areas will not comply with Council’s Private

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Stormwater code which requires a minimum setback of 3m from any structure. See Appendix 1 for comments from Council's Development Engineer on this matter.

As such, the subject development does not satisfy clause 6.4 and is recommended for refusal.

6.6.4. *Clause 6.8 – Airspace operations*

Clause 6.8 requires the consent authority to be consulted with the relevant Commonwealth body if the proposed development will penetrate the Limitation or Operations Surface.

Council referred the development application to the Sydney Airport Corporation. Concurrence has been received from the Sydney Airport Corporation, who are supported of the development application. Refer to Appendix 1 for their comments.

6.6.5. *Clause 6.10 – Essential services*

Clause 6.10 requires the consent authority to be satisfied that essential services are available or that adequate arrangements have been made to make them available. These services include water and electricity supply, sewage disposal and management, stormwater drainage or on-site conservation, and suitable vehicular access.

Council is not satisfied that the Applicant has considered that adequate arrangements have been made for electricity supply to the proposed development. The development application has not been accompanied by an infrastructure assessment to determine if adequate arrangements for electricity supply have been made to accommodate the additional dwellings and load on the existing electricity network.

As such, the subject development does not satisfy clause 6.10 and is recommended for refusal.

6.6.6. *Clause 6.11 – Design excellence*

Section 6.11(2) of the RLEP 2012 states that development consent must not be granted to development to which this Clause applies unless the consent authority is satisfied that the proposed development exhibits design excellence.

The proposed development does not exhibit design excellence as it does not provide a high standard of architectural design, materials and detailing, as follows:

- a) The proposed development consists of 2- and 3-bedroom units, which have a size that far exceeds the minimum internal area requirements of the ADG, and the additional area significantly contributes the overall massing, character and built form issues of the development, as well as adversely impacting the amenity of the surrounding neighbours.
- b) The proposed development fails to provide adequate detail demonstrating that all fire services have been accounted for on the architectural plans, including, but not limited to, the hydrant booster, number and design of fire staircases, building openings, etc.
- c) The proposed staircase core to the Hannan Street frontage results in a poor presentation to Hannan Street, and should be relocated within the building footprint.
- d) The proposed fire staircase and other services within the front setback area detracts from the streetscape presentation of the development and is to be relocated elsewhere within the site.
- e) The proposed floor-to-floor heights are 3100mm, which is insufficient to support the residential flat building development.
- f) The proposed development includes external walls sections that have a repetitious façade treatment for all floors of the building. The precast concrete, face brick or masonry blockwork over a building of this scale are not supported.
- g) The proposed development comprises of a balcony and window composition that is poorly designed and conceived.

The proposed development does not exhibit design excellence as it does not have the form and external appearance that will improve the quality and amenity of the public domain, as follows:

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- a) The proposed development has a largely consistent envelope to all floors, failing to have a form that divides the envelope into sections that present a human scale and contribute the existing local character of the area. The built form and architectural treatment are largely indistinct between lower and upper floors, which detracts from the desirable elements of local character.
- b) The proposed development does not sufficiently modulate the side elevations of the building to reduce the perceived massing and height of the building. The elevations are monolithic and visually dominant, visually prominent from public domain.
- c) The proposed street frontage and presentation to Hannan Street is poor in terms of legibility and a compromised entry amenity. The proposed building entrance lacks legibility and a civic presence. A more resolved ground plane strategy is required, incorporating landscaping, address, threshold definition and weather protection. The entrance shall be provided to the street frontage to improve legibility, safety, and weather protection.
- d) The proposed development does not sufficiently articulate the façade of the building to reduce the perceived massing and height of the building.

The proposed development does not exhibit design excellence as it does not respond to the environmental and built characteristics of the site or achieve an acceptable relationship with the surrounding existing context and other buildings on neighbouring sites, as follows:

- a) The Applicant has failed to provide contextual analysis or urban design justification for the proposed form and scale of the development.
- b) The proposed development will visually dominate the other adjoining sites and buildings, which is not responsive to the existing or desired character of future form, pursuant to Contention 4.
- c) The proposed development fails to provide adequate planted zones within the side setback areas to improve the appearance of the development by softening the impact of the part 8/9 storey building.

The proposed development does not exhibit design excellence having regard to meeting sustainable design principles in terms of sunlight, natural ventilation, safety and security, energy efficiency and urban heat island effect mitigation, as follows:

- a) The development application has not been accompanied by a sustainability strategy which should include, but not limited to, delivering a 100% electric building, provide EV-ready infrastructure to all car spaces, install photovoltaic arrays with provision for expansion, green roof systems with rainwater harvesting, assurance that all apartments independently achieve NatHERS compliance.
- b) The proposed development has failed to adequately consider and design for the heat load to glazing the northern and western facing facades, as inadequate shading devices have been provided.

The proposed development does not exhibit design excellence as the proposed development detrimentally impacts on view corridors and landmarks, as follows:

- a) The Applicant has failed to demonstrate whether the proposed development will impact upon existing view corridors within the vicinity.

As such, the subject development does not exhibit design excellence as required under clause 6.11 and is therefore recommended for refusal.

7. Clause 4.6 - Exception to a Development Standard

The proposal seeks to vary the following development standards contained within the Housing SEPP 2021:

SEPP 2021 (Housing)	Development Standard	Proposal	Proposed variation	Proposed variation (%)

Clause 175(2): Number of Storeys	6 storeys	9 storeys	3 storeys	50%
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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. Number of Storeys: Section 175(2) of Housing SEPP

The applicant's written justification for the departure from the Number of Storeys 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 Storeys development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the development is consistent with the aim of Chapter 6 'Low and mid rise housing' of the Housing SEPP and the objectives of the R3 Medium Density Residential zone.

The aim of Chapter 6 is 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.*" The applicant argues that non-compliant storey height facilitates the provision of an LMR affordable housing residential flat building in a well-serviced location that is in close proximity to public transport, services and public open space. The subject site is located approximately 265m walking distance from Maroubra Junction Town Centre.

The Applicant also argues that the proposal is consistent with the objectives of the R3 zone as follows:

- *Despite the storey height variation, the proposal will provide improved housing choice and affordability in proximity to nearby services and facilities within a medium-density residential environment where housing is in demand.*
- *The proposal includes a mix of 2-bedroom and 3-bedroom apartments, which will assist in promoting housing choice, flexibility and affordability.*
- *The non-compliant storey height facilitates the provision of additional affordable housing on the site in a well-serviced location.*
- *The proposal is of a high standard of design, inclusive of the storey height non-compliance, that will have a positive impact on the subject site and the surrounding streetscape.*
- *The subject site is located in a low and midrise housing inner area, pursuant to Chapter 6 of the Housing SEPP. The site is thereby located in an area undergoing transition. The proposed height and scale are consistent with that contemplated by Chapter 2 –*

Affordable Housing of the Housing SEPP (Sections 16(1) and Section 16(3)) and will therefore contribute to the desired future character of the area.

- *The non-compliant storey height will not unreasonably impact the amenity of neighbouring properties and the streetscape in terms of overshadowing, privacy and view loss, noting that the proposal complies with the building height and FSR development standards.*
- *The proposal will not inhibit other land uses that provide facilities or services to meet the day to day needs of residents.*

Assessing officer's comment: The applicant's written request has not adequately demonstrated that compliance with the Number of Storeys development standard is unreasonable or unnecessary in the circumstances of the case, and that strict compliance with the numerical maximum building height development standards would undermine the underlying objective and purpose of the development standards.

The assessing officers' reasons in forming this opinion is that the Number of Storeys non-discretionary development standard does not have a specified objective within the Housing SEPP EPI. The Applicant's reliance that the proposed development is consistent with the aim of the chapter and objectives of being compatible with the Zone objectives is not the test under *Wehbe v Pittwater Council [2007] NSWLEC 827*. As such, the written justification is fundamentally flawed and the Applicant has not demonstrated that compliance with the Number of Storeys 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 Storeys development standard as follows:

- *Despite the storey height non-compliance, the proposed 8-storey LMR affordable housing residential flat building is in correlation with the allowable building height of 28.6m. It is noted that the maximum building height of the proposed development (28.38m) is below the 28.6m building height control.*
- *The proposal complies with the building height and FSR development standards pursuant to Sections 16(1) and 16(3) of the Housing SEPP. On this basis, the proposal is considered to be within a generally compliant building envelope, notwithstanding the storey height non-compliance.*
- *The storey height non-compliance will not be detrimental to the streetscape and surrounding properties as the proposed bulk and scale are compatible with neighbouring high-rise buildings to the east and south of the subject site. The bulk and scale of the proposal are compatible with the existing and desired future character of the locality, which is undergoing transition. Refer to the oblique aerial photo below showing the existing high-rise development to the east and south of the subject site.*
- *The upper levels are recessed, and each level of the building is articulated with a variety of architectural features, including balconies, privacy screens, idents, and a range of materials and finishes, to minimise the perceived bulk and scale impacts of the storey height non-compliance.*
- *The proposed development, inclusive of the storey height non-compliance, allows the provision of a diversity of housing types (a mix of 2-bedroom and 3-bedroom apartments), including affordable housing, which will assist in meeting the NSW Government housing targets for the Eastern City District and Randwick Council. The State Government has introduced the Low and mid rise housing policy whilst also allowing for affordable housing to be provided in addition to the height and FSR standards under the LMR provisions. This signals a clear intent to provide increased density in well serviced locations. The State Government also did not impose minimum lot size or lot width requirements, which is also considered to confirm that the proposed form of development is consistent with that anticipated by the newly introduced Policies.*
- *The non-compliant storey height facilitates the provision of additional affordable housing on the site in a well-serviced location that is in close proximity to public transport, services and public open space. The subject site is located approximately 265m walking distance*

from Maroubra Junction Town Centre and 300m walking distance to bus stops located along Maroubra Road.

- The proposed development, inclusive of the storey height variation, has been designed so as not to have an unreasonable impact on views from the public domain or surrounding properties.
- As demonstrated in the Shadow Diagrams submitted with this DA, the additional overshadowing to the surrounding lots falls predominantly on roofs. The additional overshadowing of the surrounding lots is associated with a built form (building height and FSR) that is compliant with Sections 16(1) and 16(3) of the Housing SEPP. In this regard, the overshadowing resulting from the proposed development (inclusive of the storey height non-compliance) is consistent with the emerging character of the medium-density residential area, in accordance with Chapter 6 Low and Mid Rise Housing of the Housing SEPP.
- The proposal provides a high level of internal amenity as demonstrated by compliance with the key amenity criteria within the SEPP (Housing) 2021, including solar access, cross ventilation, private open space, apartment and room sizes, storage and car parking. The excess storey height, thereby does not compromise the ability to meet or outperform the ADG criteria.
- The proposal includes a high-quality landscape design that includes the planting of a variety of trees, shrubs and turf around the perimeters of the building on the Ground Floor. The proposed landscaping will enhance the amenity and visual setting of the proposed residential flat building and will soften the visual built form of the development, notwithstanding the storey height non-compliance. The design of the proposal allows for significant outperformance of the deep soil landscape requirements under the ADG and the Tree Canopy Guide for Low and Mid Rise Housing. The proposal includes deep soil landscaped area constituting 20.3% of the site, which is well beyond the 7% requirement for LMR housing on this site and the ADG. The proposed canopy cover of 15.1% complies with the 15% requirement for LMR housing on this site. Such additional deep soil landscaping assists in providing effective landscape buffers to the streetscape and to neighbouring properties, whilst also providing for a landscaped outlook from the proposed apartments. The extensive deep soil planting areas around the perimeter of the site are considered to soften the overall height, bulk and scale, inclusive of the storey height variation.
- The proposal is consistent with the R3 Medium Density zone objectives and the storey height objectives.
- The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represent 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).

Assessing officer's comment: The Applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. The assessing officers' reasons for forming this opinion are as follows:

- The Applicant has failed to adequately demonstrate what the desired future character of the locality will be, in considering the increased development potential of the area in accordance with the LMR and in-fill affordable housing provisions of the Housing SEPP. Insufficient detailed modelling of indicative building envelopes, floor plans, separation analysis and solar analysis have failed to be provided. In addition, the applicant has failed to consider the character of the western side of Hannan Street, which is in the R2 Zone and not subject to the 6 storey building heights that are applicable to the eastern side of Hannan Street.
- The development presents as an 8-storey development, which results in a built form that is inconsistent with the character of development in the area and lacks sufficient modulation and articulation to the built form to justify an 8 storey presentation to Hannan Street.
- The development does not result in a size and scale of development that recognises the desired future character of the area that is in transition, as a result of being in the LMR inner area. The additional levels as a direct extrusion of the form below fronting Hannan Street ignore likely future alignments in built form and scale and exacerbate the bulk and scale of the building.

- No additional front or side setback is proposed to the new levels in recognition of the providing a human scale of development that respects a desired new streetscape character.
- The external materials, colours and textures consist of mainly white and light finishes that further exacerbate the scale and visual impact of the 8 storey development.
- The development fails to provide adequate landscaping with canopy trees within the front setback area to soften the visual impact of an 8 storey development.
- Overall, the design does not exhibit design excellence, as per the comments made by the Design Excellence Advisory Panel.
- The proposal does not meet the objectives of the R3 Zone or Section 1.3 of the EP&A Act, Development Control Plans and Policies.

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 Storeys development standard.

8. 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 5.

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal does not satisfy the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 5 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. <u>Environmental Planning and Assessment Regulation 2021</u> Section 26 requires a development application for development to specify the name of the registered community housing provider who will manage the affordable housing component.

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Section 4.15 'Matters for Consideration'	Comments
	<p>The Applicant has confirmed that Bridge Housing Pty Ltd TA HomeGround Sydney will manage the affordable housing component.</p> <p><u>Housing and Productivity Contribution</u> The proposed development is subject to a housing and productivity contribution (HPC) in accordance with section 7.28 of the EP&A Act 1979. The Applicant lodged the development application without acknowledging the imposition of the HPC. Council asserts that the HPC is applicable in accordance with the Act and Regulations.</p>
<p>Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is inconsistent with the desired future character in the locality.</p> <p>The proposal will result in detrimental social or economic impacts on the locality.</p>
<p>Section 4.15(1)(c) – The suitability of the site for the development</p>	<p>The site is located in close proximity to local services and public transport.</p> <p>The site does not have sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered unsuitable for the proposed development.</p>
<p>Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation</p>	<p>The issues raised in the submissions have been discussed in this report.</p>
<p>Section 4.15(1)(e) – The public interest</p>	<p>The proposal does not promote the objectives of the zone and will result in significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.</p>

9.1. Discussion of Key Issues

Desired Future Character Test

Section 20 of the Housing SEPP requires that development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—

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

The applicant’s SEE states the following:

“The subject site is located in a LMR housing inner area, pursuant to Chapter 6 of the Housing SEPP. The site is thereby located in an area undergoing transition. The proposed height and scale are compatible with that contemplated by Chapter 2 – Affordable Housing of the Housing SEPP (Sections 16(1) and 16(3)). The proposed part-8 and part-9 storey residential flat building will contribute to the desired future character of the area, which is likely to include medium density built forms that respond to the LMR housing increased heights and densities.”

The applicant relies upon the potential height and FSR bonuses that may be achieved on adjoining or nearby sites via the “low and mid rise housing” and “in fill affordable housing” provisions of the Housing SEPP to argue that the proposed development is compatible with the desired future character of the area.

However, the applicant has failed to provide any detailed modelling to demonstrate that such development would in fact be achievable on adjoining and nearby properties, showing compliance with all relevant development standards and controls (including in terms of indicative residential layouts, parking provisions, tree canopy coverage, common open space and building envelopes showing likely separation, visual bulk, privacy and solar access impacts). In the case of the immediately locality, the following should be provided:

- A detailed existing site and character analysis of immediate locality including building types, subdivision patterns and development potential.
- Detailed envelope modelling of development within the vicinity that responds to the desired future character in accordance with the “low and mid rise housing” and “in fill affordable housing” provisions.
- Detailed indicative building layouts from the modelled envelopes of both the LMR envelopes with the infill bonuses differentiated as being subject to potential feasibility and future local character analysis.
- Detailed building separation analysis to demonstrate that ADG separation requirements can be achieved between the subject site and adjoining sites.
- Detailed privacy and solar analysis and modelling of future building modelling.
- An analysis of whether sufficient building separation can be achieved between that site and the subject site in line with the requirements of the Housing SEPP and ADG.

The submitted modelling of indicative envelopes fails to provide the required detail including building separation analysis, layouts, solar compliance, etc.

The submitted modelling also contemplates 9 storey development to the western side of Hannan Street, which is inaccurate as this side of the street is within the R2 Zone and therefore not subject to the non-discretionary development standards that allow for a 6 storey residential flat building pursuant to section 180 of the Housing SEPP. Council considers that the LMR should form the precedent that informs the desired future character (if appropriate in the context) and that the additional height and bulk associated with the infill affordable housing is not a supportable outcome in the context of the current site context and wider urban block.

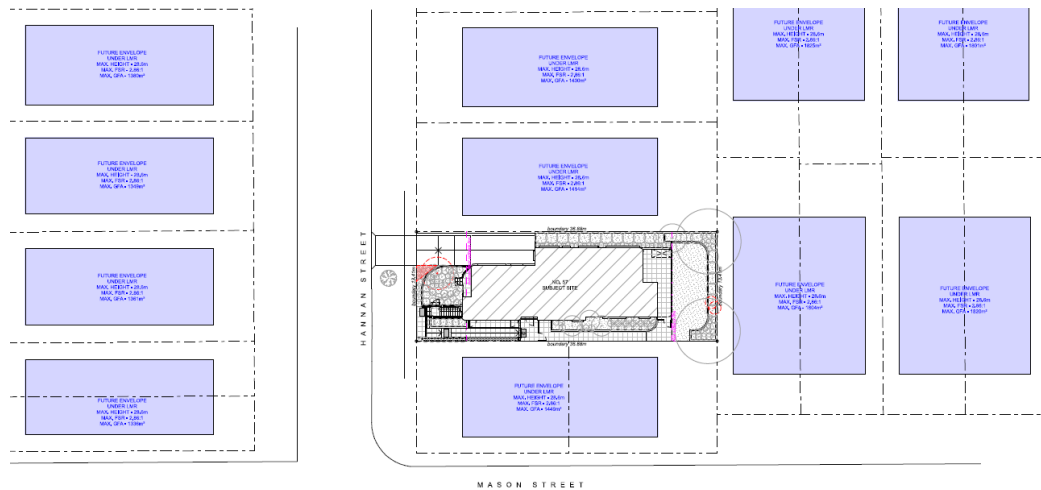


Figure 9: Plan showing indicative building envelope and massing analysis (Source: Archispectrum)

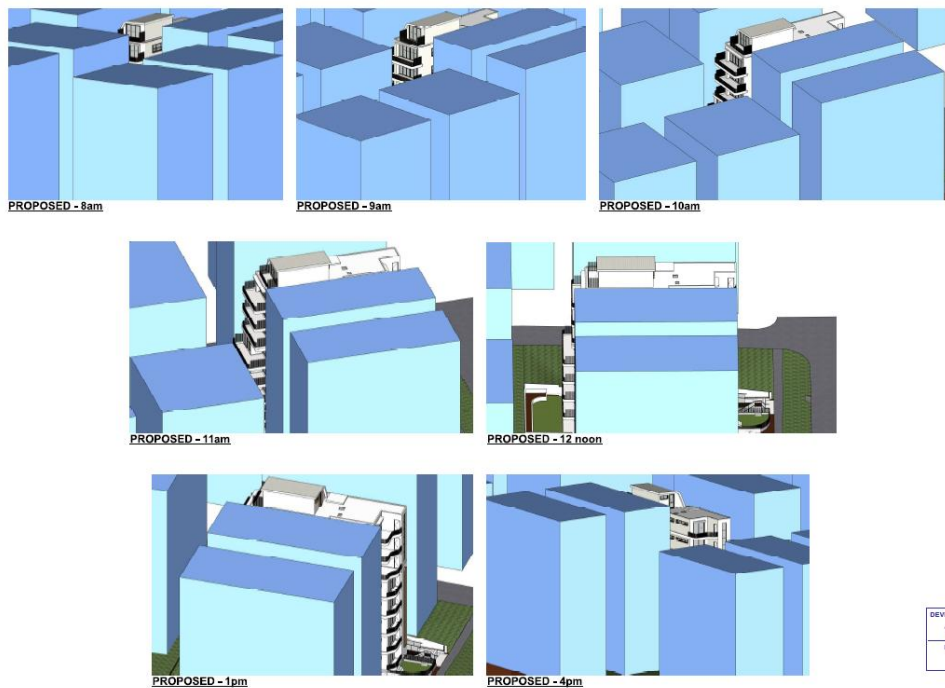


Figure 10: Sun eye diagrams showing indicative building envelope and massing analysis (Source: Archispectrum)

The applicant has failed to adequately consider and demonstrate what the desired future character of development of the precinct. Council is not satisfied that the proposed development is in keeping with the desired future character of development in the area and therefore the scale of the proposed development is not supported.

Building Separation and Setbacks

Pursuant to Part 3F-1 of ADG, the minimum required separation distances from buildings to the side and rear boundaries are as follows:

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

The proposed development consists of the following side and rear setbacks from habitable rooms to boundaries:

- Northern side boundary: 2m-4.1m to 1-5 storeys, 2.9m-4.3m to 6-8 storeys, 4.15m to 9 storey (including windows to habitable rooms).
- Southern side boundary: 2.6m-3m to 1-5 storeys, 2.6m-3.6m to 6-8 storeys, 4.3m to 9 storey (including windows to habitable rooms).
- Eastern rear boundary: 5.6m to 2-5 storeys, 6.9m to 6-8 storeys, 9.3m to 9 storey (including windows to habitable rooms).

The proposed development does not provide adequate separation to its side boundaries. The development will be within close proximity to the adjoining buildings including being only separated 3m to 55 Hannan Street and 3.8m to No. 59 Hannan Street and 64 Mason Street, respectively.

The lack of separation between the proposed development and its respective side boundaries results in unacceptable visual bulk in close proximity to existing development, loss of visual and acoustic privacy, and overshadowing impacts to the streetscape and neighbouring buildings.

The lack of separation results in windows to the development being within 3m of the side boundaries, of which will require a performance solution under the BCA. The details of such solution have not been provided and as such, the finish of the windows is unclear which could adversely impact the amenity of future occupants of the development.

The lack of adequate separation is in part a result of the site configurations, being a site with a 13.41m frontage width and an area of 494.6m². The Applicant has failed to demonstrate that such a development can be accommodated on the site.

Council notes that whilst some portions of the building may comply with the setback controls in Part C2 of RDCP 2013, this section of the RDCP does not envision residential flat buildings greater than 12 metres (or 4 storeys) in heights. As such, the controls relate to a form significantly smaller than that proposed under the new “low and mid rise housing” provisions of the Housing SEPP.

As such, the proposed development is recommended for refusal.

Communal Open Space

Section 3D-1 of the ADG includes the following design criteria:

- “1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)
2. 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)”

Section 2.3.2(i) in Part C2 of RDCP 2013 requires communal open space for a residential flat building to be as follows:

- “(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 proposed development comprises of a COS with an area of 74sqm or 15% of the site area. The area is located at the eastern rear portion of the site that does not incorporate any indicative recreation uses and facilities.

The non-compliance with the 25% minimum control demonstrates that the proposed COS is not of an adequate size. There are no local parks or infrastructure within the immediate vicinity that may warrant a potential reduction in the size of the COS.

The proposed COS fails to provide adequate residential amenity and does not provide for outdoor recreation or landscape design, and thereby adversely impacts upon the amenity of the future occupants of the building.

The proposed COS will have an adverse impact upon the acoustic and visual amenity of Apartment 1.

As such, the proposed development is recommended for refusal.

Solar Access and Natural Ventilation to Proposed Dwellings

Part 4A of the ADG requires that living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours of direct sunlight.

Part 4B of the ADG requires at least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.

The proposed development consists of 8 dwellings. Therefore, at least 6 dwellings must have 2 hours of direct sunlight to living rooms and private open spaces and at least 5 dwellings are to be naturally cross ventilated.

The applicant asserts that all dwellings receive 2 hours of direct sunlight and all are naturally cross-ventilated. However, Council asserts that the northern living rooms window treatment is unclear as the windows are located within 3m of the side boundary and therefore do not comply with the BCA separation requirements. Without certainty regarding the window treatment, it cannot be determined whether the windows receive adequate solar access or the extent of their operability. Furthermore, the applicant's sun eye diagrams of future modelling in Figure 10 above demonstrate that should the area follow the development scale as proposed, no living rooms will receive adequate solar access.

The proposed development fails to confirm adequate solar access to dwellings' living rooms and that units are naturally cross-ventilated, and thereby could adversely impact upon the amenity of the future occupants of the building.

As such, the proposed development is recommended for refusal.

Adjoining Neighbour Amenity Impacts

In terms of visual amenity, the proposed development has a part 8/9 storey and 1 basement level building envelope that maintains a largely consistent envelope across all levels.

The massing and envelope of the proposed building do not have sufficient modulation/articulation or exhibit design excellence (as outlined above in this report), which has an adverse impact upon visual amenity of the neighbouring buildings.

Section 5.3(i) in Part C2 of RDCP 2013 requires windows and balconies of habitable rooms to be located to minimise overlooking of POS, windows or glassed doors in adjoining dwellings (whether part of the development or on adjoining properties).

In terms of visual privacy, the proposed development has habitable room windows that do not comply with ADG separation requirements, resulting in direct overlooking of adjoining dwellings and their private open space.

The proposed development will result in direct overlooking of living room and adjoining balconies, and bedroom windows of adjoining dwellings, without any privacy considerations, which will impact upon the privacy and amenity of residents.

In terms of acoustic privacy, the applicant has failed to provide an acoustic report that adequately considers the noise impact of the development. Such a report was required by Council's Environmental Health Officer (see Appendix 1 for comments).

In terms of solar access, the Applicant has failed to provide adequate solar analysis to demonstrate the impact of the development to all neighbours, as both aerial and sun eye diagrams are cut off and fail to show the full extent of the impact.

The proposed development will adversely overshadow the living rooms' windows and balconies of southern neighbours, which results from a massing and lack of separation and modulation of the building which does not exhibit design excellence (as outlined above in this report).

Finally, the applicant has failed to provide any detailed view impact assessment with the submitted development application. The full extent of the impact on existing views is not known.

As such, the proposed development is recommended for refusal.

Insufficient Parking and Basement Layout

Section 19(2)(e) and (f) of the Housing SEPP relevantly states the following parking rates for "in fill housing" development:

- “(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.”

The proposed development consists of 8 units comprising of:

- 2 x 3-bedroom affordable housing dwellings,
- 4 x 3-bedroom market dwellings, and
- 2 x 2-bedroom market dwellings.

Section 148(2)(a) of the Housing SEPP requires 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 ADG. The ADG refers to the Guide to Traffic Generating Developments for visitor parking requirements.

Section 5.4.3 ‘High Density Residential Flat Buildings’ of the Guide to Traffic Generating Developments states as follows:

*“The recommended minimum number of off-street resident parking spaces is as follows:
Metropolitan Regional (CBD) Centres:*

*...
1 space per 7 units (visitor parking).”*

The minimum car parking rate is 11 parking spaces (including 1x for visitor parking).

The proposed development includes 10 parking spaces, failing to provide any visitor parking spaces for the building. The lack of any visitor parking will have adverse impacts on on-street parking, increasing the number of vehicles parking on the street.

In addition, the proposed basement parking configuration of the 10 parking spaces consists of 4x car stacker parking spaces and 2x tandem parking spaces.

The parking layout configuration is not supported for the following reasons:

- There is a high reliance on mechanical devices with both car-stackers and a car-turntable proposed.
- The head clearance in the basement will be less than 3.50m which will severely restrict the type of vehicles that can utilise the car-stackers. A minimum height clearance of 3.9m is required independent car stackers which will accommodate most vehicles.
- The allocation of parking spaces is unclear and concerns are raised as to how car stackers may be shared across separate dwelling owners.
- The bicycle space situated between car space 9 and the lift well shall be relocated as it restricts access to the lift for occupants of car spaces 1-8.

As such, the proposed development is recommended for refusal.

Insufficient Information

A full and robust assessment of the proposal cannot be completed as insufficient information has been submitted with the development application, including the following matters:

a) *Architectural Plans*

- The plans do not show in detail the adaptable dwellings and how they have been designed in accordance with AS 4299 “Adaptable Housing”.
- The proposed roof plan does not include RL spot heights of all relevant features.
- The proposed lift overrun and other roof elements has not been shown on all plans (both floor plans, elevations and sections).

- The plans do not show internal room dimensions on the plans.
- The plans do not include the location of any air-conditioning condensers on the plans.
- The plans do not show the relevant location of all required fire services and equipment, in accordance with the BCA requirements.
- Provide a 1:50 detailed section plan demonstrating that the proposed floor-to-floor ceiling heights of 3.1m are sufficient to accommodate relevant services and flooring between floors.
- Provide a 1:50 detailed section plan through the street and COS interfaces.
- Provide a services spatial overlay to demonstrate the building can be realised without compromising the internal amenity suggested.
- Provide a structural spatial overlay to demonstrate the building can be realised. Show indicative transfers where required.

b) *Photomontage*

- The development application is not accompanied by a photomontage showing what the development will look like from relevant vantage points within the vicinity including, but not limited to, the northern and southern sides of Hannan Street, Gale Road and Mason Street.

c) *Design Analysis*

- The development application is not accompanied by a contextual analysis or urban design report to assess and determine how the locality will transition in form and scale as a result of the 'low and mid rise housing inner area' in accordance with Chapter 6 of the Housing SEPP. Such analysis is to include, but not limited to topography and slope; block grain and lot rhythm; built form typologies and prevailing setbacks; transition between low-rise dwellings and mid-rise forms; and landscape character and canopy pattern.

d) *Modelling*

- The development application is not accompanied by detailed modelling of potential future redevelopment on all adjacent and nearby sites, demonstrating likely envelope outcomes under comparable controls. This is to include, but not limited to, indicative envelopes with detailed separation analysis, privacy analysis, solar access analysis, indicative layout, basement configuration, etc.

e) *Acoustic Report*

- The development application has not been accompanied by an Acoustic Report addressing the potential adverse acoustic impacts of the proposed development. The acoustic assessment and report are to be completed in accordance with the NSW Environmental Protection Guidelines, including the *Industrial Noise Policy* and *Environmental Noise Control Manual (sleep disturbance)* and relevant Australian Standards. The report is to include (but not be limited) to;
 - Noise emissions from all plant and equipment within the subject development (e.g. mechanical ventilation systems, refrigeration equipment etc);
 - Noise emissions arising from the use and operation of the proposed development (including associated activities which may generate noise);
 - Noise emission into the proposed development from the surrounding environment.
 - Interior acoustic privacy (in accordance with RDCP 2013).

f) *Shadow Diagrams*

- The submitted solar diagrams are inadequate in demonstrating the extent of overshadowing impact of the proposed building envelope envisioned in RLEP and RDCP. The shadow diagrams fail to show:

- Full existing and proposed hourly shadow diagrams between 8am–4pm extending beyond Mason Street and demonstrating impacts under existing and future context scenario.

g) Waste Management

- The development application has not been accompanied by a bin presentation plan showing how and where the waste bins will be transferred and presented at the kerbside for collection.

h) Electricity Supply

- The development application has not been accompanied by an infrastructure assessment to determine if adequate arrangements for electricity supply have been made to accommodate the additional dwellings and load on the existing electricity network.

i) Performance Solution Report

- The development application has not been accompanied by a Performance Solution Report by a suitably qualified fire engineer to determine the viability of the performance solutions raised in the submitted BCA Performance Requirements Compliance Statement.

j) Contamination

- The applicant has failed to provide a Preliminary Site Contamination Investigation Report, prepared by a suitable qualified professional, has not been submitted for assessment. This Preliminary Investigation shall be carried out in accordance with the requirements of the NSW EPA Guidelines and is to be undertaken by a suitably qualified environmental consultant. The Preliminary Site Contamination Investigation is to identify any past or present potentially contaminating activities and must be provided to Council, in accordance with Council's Land Contaminated Land Policy. Should the Preliminary Site Contamination Investigation be unable to justifiably conclude that the site is currently suitable for the proposed use, a Detailed Site Contamination Investigation must be undertaken by an independent appropriately qualified environmental consultant.

10. Conclusion

That the application for demolition of existing building/structures and construction of a part-8 and part-9 storey residential flat building comprising 8 apartments (2 x 2-bedroom and 6 x 3-bedroom) and basement parking for 10 parking spaces, associated ancillary and landscaping works, at 57 Hannan Street Maroubra be refused for the reasons listed in the recommendation section.

Appendix 1: Referrals

1. External Referral Comments:

1.1. Randwick Design Excellence Advisory Panel

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Randwick Design Excellence Advisory Panel
Final Endorsed Comments



DA INFORMATION	
Application Number	DA/1302/2025
Address	57 Hannan Street, Maroubra, NSW 2035
Meeting Date	16th February 2026
Panel Members	Peter St Clair (chair)
	Rachid Andary
	Jonathan Knapp
Report Date	20th February 2026

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INTRODUCTION

This report summarises the advice and recommendations of the Design Excellence Advisory Panel (DEAP) in relation to the above development application.

The Panel’s advice is provided to assist Council in its assessment of the proposal against Chapter 4 of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP), including the Design Quality Principles for residential apartment development and the Apartment Design Guide (ADG). The advice is also intended to guide the applicant and their design team in refining the proposal to better achieve the objectives and requirements of the Housing SEPP.

The DEAP is appointed by Randwick City Council as an independent advisory body. The Panel is not the consent authority. The comments set out below reflect the professional design advice of suitably qualified experts in architecture, urban design, planning and landscape architecture.

In response to the DEAP’s comments, the applicant may be requested to submit amended plans. Prior to preparing any amended plans, the applicant must consult with the relevant Council assessing officer to discuss the Panel’s advice and any other matters requiring amendment. Any amended plans submitted to Council must be accompanied by a written response detailing how each of the DEAP’s comments has been addressed to Council’s satisfaction.

OVERVIEW OF THE PROPOSAL

The Panel thanked the design team for attending the DEAP. The applicant’s planner and architect presented the architectural drawings dated 26/11/2025.

Positive Aspects Identified by the Panel

The Panel acknowledges and supports:

- The single-apartment-per-level configuration
- Provision of cross ventilation and generally favourable solar orientation
- Logical apartment planning
- Inclusion of affordable housing

Notwithstanding these positive elements, the Panel has identified significant concerns regarding context response, built form, height, separation, amenity and density.

1. CONTEXT AND NEIGHBOURHOOD CHARACTER

The site is zoned R3 Medium Density Residential and is located approximately 260 metres from the edge of the mapped Maroubra Town Centre. Surrounding development predominantly comprises one- and two-storey detached dwellings, with 5–7 storey apartment buildings located along Anzac Parade and further south on Hannan Street.

The site falls within the “inner area” of the Low and Mid-Rise provisions, where future uplift may occur. However, uplift does not negate the requirement to respond appropriately to both existing and foreseeable context. This area extends further west towards Royal Street, suggesting both sides of Hannan Street may experience such future uplift.

Panel Comments and Recommendations

Comprehensive Context Analysis Required

No detailed context analysis was provided. Development at this scale must be informed by:

- Topography and slope
- Block grain and lot rhythm
- Built form typologies and prevailing setbacks
- Transition between low-rise dwellings and mid-rise forms
- Landscape character and canopy patterns

This analysis should clearly inform the site strategy, massing, articulation and landscape approach.

Future Character and Development Pattern

The Panel requests more detailed modelling of potential future redevelopment on all adjacent sites, demonstrating likely envelope outcomes under comparable controls. This is essential to justify building height, separation and the appropriateness of an 8/9-storey typology on the subject lot.

Site Consolidation

The Panel strongly recommends exploration of consolidation with an adjoining property to achieve a site width capable of accommodating an 8/9-storey form while maintaining appropriate building separation and amenity. Alternatively refine the floor plate and respect the objectives of the ADG around separation and amenity, and significantly reduce the height of the building to better fit the existing site parameters.

Street Interface and Entry

The building entrance lacks legibility and civic presence. A more resolved ground plane strategy is required, incorporating landscaping, address, threshold definition and weather protection.

2. BUILT FORM AND SCALE

The Panel does not support the proposed building height or envelope configuration in its current form.

Although the proposal seeks to utilise LMR and affordable housing incentives, the resulting building envelope produces compromised separation, overshadowing and amenity outcomes inconsistent with the Housing SEPP Design Quality Principles and ADG Parts 2, 3 and 4.

Panel Comments and Recommendations

Height

- Reduce building height to mitigate overshadowing impacts, particularly to 59 Hannan Street.
- Provide full shadow diagrams (8am–4pm) extending beyond Mason Street and demonstrating impacts under existing and future context scenarios.

Building Separation and Setbacks

- Increase side setbacks to achieve ADG-compliant separation.
- Demonstrate separation in accordance with ADG Parts 2F and 3F.
- Consider and demonstrate NCC fire separation compliance in relation to openings.
- Acknowledge that reduced separation may only be appropriate where blank walls are proposed.

Massing and Articulation

- Increase stepping above Level 3, particularly on the western elevation to Hannan Street.
- Further modulate the envelope to reduce perceived height.
- A concept be developed and implemented to articulate the building form consistent with mid rise typologies and the future character modelling.

3. DENSITY

The proposed density is not supported.

The current FSR contributes to:

- Insufficient building separation
- Compromised outlook for lower-level apartments
- Reduced amenity for neighbouring dwellings

Panel Comments and Recommendations

- Reassess density in conjunction with height and separation.
- Demonstrate that yield does not compromise amenity outcomes.
- Consider reducing gross floor area to enable improved setbacks, communal open space and façade articulation.

Density uplift must be accompanied by demonstrable design excellence and improved amenity outcomes.

4. SUSTAINABILITY

Sustainability and Connecting with Country were not adequately addressed in the submission.

Panel Comments and Recommendations**Connecting with Country**

- Develop a formal Connecting with Country strategy integrated into architectural and landscape design.
- Address cultural narratives, native planting, water cycles and place identity.

Environmental Performance

- Develop a Sustainability Strategy in accordance with Randwick City's Environment Strategy 2022 and SEPP Sustainable Buildings 2022.
- Deliver a 100% electric building (strongly encouraged).
- Provide EV-ready infrastructure to all car spaces.
- Install photovoltaic arrays with provision for expansion.
- Consider green roof systems with rainwater harvesting.
- Ensure all apartments independently achieve NatHERS compliance.

Solar Shading

- Increase depth of shading to north and west-facing glazing.

5. LANDSCAPE

The ground floor communal open space (COS) is limited in amenity and future resilience.

Panel Comments and Recommendations**Ground Level COS**

- Improve acoustic and visual separation from Apartment 1.
- Enhance integration of landscaping with communal function.
- Detailed 1:50 sections through the street and COS interfaces,

Roof-Level Communal Space

Given likely future overshadowing from redevelopment, a roof-level communal open space is strongly recommended. Alternatively allow for future installation of such a roof space. This should include:

Setbacks and Planting

- Provide a minimum 6m clear front setback free of services and fire stairs.
- Provide minimum 1m wide planted zones to side setbacks

Basement Operation

Submit a traffic and access management strategy addressing, turntable operation, car stackers and tandem parking functionality.

6. AMENITY**Panel Comments and Recommendations****Street Address and Entry Experience**

- Improve legibility and spatial generosity of the entry.
- Provide weather protection and enhanced landscaping.

Solar Access.

- Provide expanded overshadowing analysis (8am–4pm) and allowing for future context.

Outlook and Privacy

- Increase separation distances for lower-level apartments (Ground–Level 4).
- Reassess privacy impacts under future development scenarios.

Apartment Design

- Provide full internal room dimensions.
- Review furniture layouts for functionality.
- Provide minimum 3150mm floor-to-floor where balconies are stacked. and 3250mm where balconies are not stacked.
- Ensure balconies are compliant and furnishable.

Building Services

- Integrate a services spatial overlay to demonstrate the building can be realised without compromising the internal amenity suggested.

- Integrate a structural spatial overlay to demonstrate the building can be realised. Show indicative transfers where required.

7. SAFETY

Panel Comments and Recommendations

- Simplify and rationalise entry level transitions.
- Resolve fire stair egress conflicts (doors must not obstruct one another).
- Provide two compliant fire stairs from basement level.
- Remove basement egress stair from front setback.
- Apply CPTED principles to all shared spaces.

8. HOUSING DIVERSITY AND SOCIAL INTERACTION

Panel Comments and Recommendations

- Provide accessible and inclusive street interface.
- Deliver required adaptable and liveable dwellings in accordance with policy requirements.

9. AESTHETICS

The façade design requires further refinement to align with ADG Part 4M objectives.

Panel Comments and Recommendations

- Refine grouping of balconies and window composition
- Review the design of the south elevation which is visually heavy and monolithic, despite being visually prominent from public domain to the south.
- Reduce reliance on render and lightweight cladding.
- Consider durable materials such as precast concrete, face brick or masonry blockwork.
- Increase shading to north and west-facing façades.

ADDITIONAL INFORMATION REQUIRED FOR NEXT DEAP

- Comprehensive context analysis
- Future redevelopment modelling
- Connecting with Country strategy
- Sustainability strategy
- Updated solar access studies (8am–4pm)

CONCLUSION

The Panel does **not support** the proposal in its current form.

The application requires substantial revision to height, density, separation, communal open space provision and contextual response. The Panel strongly recommends investigation of site consolidation to enable a built form capable of achieving design excellence consistent with the objectives of the State Environmental Planning Policy (Housing) 2021.

While the site is subject to the Chapter 2 Infill Affordable Housing and Chapter 6 Low and Mid-Rise Housing provisions, these do not override the requirement to achieve design excellence or compliance with the design quality framework under Chapter 4.

The Panel welcomes the opportunity to review a significantly revised proposal at a future Design Excellence Advisory Panel meeting.

1.2. Ausgrid

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



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

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

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

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

Ausgrid Overhead Powerlines are in the vicinity of the development.

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

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

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

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

New Driveways - Proximity to Existing Poles

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

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New or modified connection

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

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

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

Regards,
Ausgrid Development Team

For Official use only

D8/26

1.3. Sydney Airport Corporation



Reg No.: 26/0082

Thursday, 29 January 2026

To: NSW PLANNING PORTAL

Notice to Proponent of Property Development

Dear Sir / Madam,

Application for approval of a controlled activity pursuant to:

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

Proposed Activity: PROPERTY DEVELOPMENT
Location: 57 HANNAN STREET MAROUBRA 2035
Proponent: NSW PLANNING PORTAL
Date: 29/01/2026

Sydney Airport received the above application from you.

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

The application sought approval for the PROPERTY DEVELOPMENT to a height of 53.71 metres Australian Height Datum (AHD).

In my capacity as Airspace Protection Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 53.71 metres AHD.

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

Sydney Airport

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

SYD Classification: Confidential

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

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

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

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

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

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

The height of the prescribed airspace at this location is 56.00 metres above AHD.

Planning for Aircraft Noise and Public Safety Zones:

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

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

Sincerely,



Leanne Grech
Senior Airspace Protection Officer

Sydney Airport

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SYD Classification: Confidential

D8/26

Note:

1. a person who conducts a controlled activity otherwise than with an approval commits an offence against the Act.
 - s. 183 and s. 185 Airports Act 1996.
 - Penalty: 250 penalty units.
2. if a structure is not authorised, the Federal Court may order a person to carry out remedial works, mark or light, or reduce the height of or demolish, dismantle or remove a structure.

Sydney Airport

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SYD Classification: Confidential

Attachment A**Application for Approval of Crane Operation****[Sections s.182, 183, Airports Act 1996]****[Airports (Protection of Airspace) Regulations 1996 – Reg 7]****TO: Sydney Airport Corporation Ltd**

c/- Airport Design Services
Locked Bag 5000
Sydney International Airport
NSW 2020
Email: airspaceprotection@syd.com.au

Application pursuant to airport (protection of airspace) regulations reg 7:

- a) Pursuant to s. 183 of the *Airports Act 1996* and Reg 7 of the *Airports (Protection of Airspace) Regulations 1996*, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
- b) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- c) The operation must not commence without approval and must only proceed in compliance with any conditions imposed on such approval.
- d) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- e) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- f) The Secretary and the Airport, as applicable, may request further information before determining an application.
- g) The "**Important Notes**" must be read and accepted.
- h) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

CERTIFICATE BY PROPONENT:**Sydney Airport**

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SYD Classification: Confidential

D8/26

I certify that the Application for approval is complete to the best of my knowledge.

Dated:

Signature of Proponent:

Title of signatory:

Sydney Airport

- 5 -

SYD Classification: Confidential

Schedule to Application for Approval of Crane Operation
Information required by the Airports (Protection of Airspace) Reg's – Reg 7:

APPLICANT:.....[Proponent]

Of:

Contact:

Phone:

Email:

1. Description of proposed crane operation:

.....

2. Period of Operation:

fromto.....

3. Days and hours of operation:

days:.....

hours:.....

4. Location:

Address:.....

Mapping Grid of Australia (MGA94) co-ordinates:

.....E

.....N

Sydney Airport

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SYD Classification: Confidential

D8/26

5. Details of crane height

(i) maximum height: metres above ground

(ii) maximum height: metres AHD

(iii) resting crane height: metres AHD

6. Purpose of the crane operation:

.....

7. Reference to relevant Development Application:

Council and DA reference:.....

SAFETY CASE FOR ACTIVITY: The Proponent proposes the following safety case:

.....

.....

.....

Sydney Airport

- 7 -

SYD Classification: Confidential

**IMPORTANT NOTES TO APPLICATION FOR APPROVAL OF CRANE OPERATION
WHICH IS A CONTROLLED ACTIVITY****[Airports Act 1996]****[Airports (Protection of Airspace) Regulations 1996]**

1. Section 182: defines "controlled activities" – includes intrusions by cranes into prescribed airspace.
2. Section 187: if a controlled activity is carried out without approval, or is carried out otherwise than in accordance with an approval, the Federal Court may order a person to carry out remedial work on a building, structure or thing; to mark it or light it or both; to reduce its height.
3. Section 183: a person who carries out a controlled activity without the approval of the Secretary or Airport commits an offence against section 183 of the Act.
 - a) Penalty: 250 penalty units for each such offence.
4. Regulation 8: a building authority that receives a proposal for a building activity that, if undertaken, would constitute a controlled activity in relation to an airport must give notice of the proposal to the airport
 - a) Penalty: 50 penalty units for each such offence.
5. If the activity is a short term activity (less than 3 months), the Airport will determine the application pursuant to delegated authority from the Secretary.
6. If the activity is a long term activity (greater than 3 months), the Secretary will determine the application.
7. If the activity is a long term intrusion into PANS-OPS, the application will not be approved. [Reg 9].
8. The Airport will give notice of the application to, and invite submissions from, the Civil Aviation Safety Authority of Australia (CASA) and Airservices Australia. [Reg 10].
9. Upon receipt of submissions from CASA and Airservices, the Airport will refer the application and any submissions from CASA and Airservices, as well as the Airport, to the Secretary, or will determine the application itself if it is a short term activity. The Secretary or the Airport will notify you in writing of their decision.
10. Neither the Secretary or the Airport will approve any activity if CASA advises that carrying out the activity would have an unacceptable effect on the safety of existing or future air transport operations into or out of the Airport. [Reg14(6)].

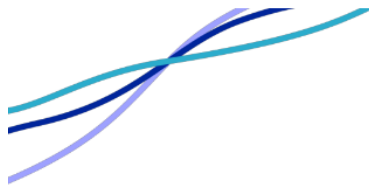
Sydney Airport

- 8 -

SYD Classification: Confidential

1.4. Sydney Water Corporation

D8/26



D8/26

19 February 2026

Our reference: N/A

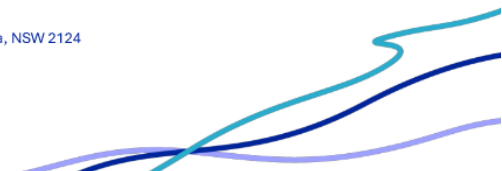
William Joannides
 Randwick City Council
william.joannides@randwick.nsw.gov.au

RE: Development Application DA/1302/2025 at 57 Hannan Street, Maroubra (A-114345/CNR-91510)

Thank you for notifying Sydney Water of DA/1302/2025 at 57 Hannan Street, Maroubra, which proposes the demolition of existing structures, and construction of a part-eight, part-nine storey residential flat building containing eight (8) 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.

Sydney Water position:	Condition of Consent applies
Condition of Consent which applies:	Section 73 and Building Plan Approval required See Attachment 1 for recommended wording for Sydney Water conditions to be included in the consent letter.
Additional comments:	Adjustments/deviations to the 225mm wastewater mains traversing the site may be required. We recommend the proponent contact Sydney Water as early as possible to prevent development delays where significant adjustments or design variations are required.
Other information:	This advice is not formal approval of our servicing requirements. Detailed requirements will be provided once the development is referred to Sydney Water for further applications. The <i>Sydney Water Development Application Information Sheet (for proponent)</i> enclosed contains details on how to make further applications to Sydney Water and further information on Infrastructure Contributions. A copy of this should be provided to the proponent in conjunction with the development consent.

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



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.

Yours sincerely,

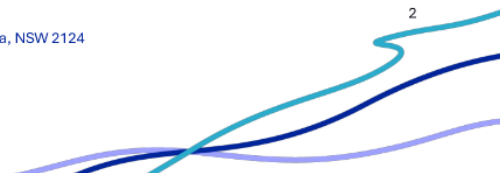
Growth Analytics Team

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

Enclosed:

- Sydney Water Development Application Information Sheet (for proponent)

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



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 possible to reduce unnecessary delays to further referrals or development timescales.

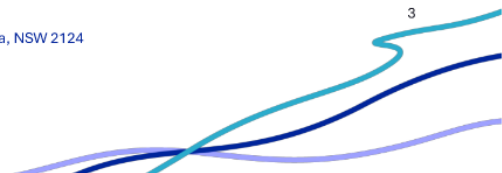
Tree Planting

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
2 Parramatta Square, 1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124
Telephone 13 20 92 sydneywater.com.au



1. Internal referral comments:

1.1. Development Engineering

Flooding Issues

The subject development site is located adjacent to a localised low point in Hannan Street and the Council commissioned Birds Gully Flood Study indicates the proposed development will be susceptible to flooding during major storm events.

Council's flood model has determined the 1 in 100yr flood level for the site to RL 25.18 AHD.

Part B8 of Council's DCP currently requires;

- All habitable floor area is to be provided at or above the level of the 1% AEP (1 in 100yr) flood + 0.5m freeboard being RL 25.68 in this instance
- Entrances to basement carparks must be protected by a crest on the internal driveway at 300mm above the 1 in 100yr flood level being RL 25.48 in this instance

The submitted plans indicate the minimum floor level (Unit 1) to be RL 25.88. The floor levels are therefore satisfactory.

Similar with the previous approved development under DA/405/2018, Development Engineering advises that a crest on the internal driveway at the 1 in 100yr flood level only (RL 25.18) would also be acceptable provided the 300mm freeboard component is protected by a flood gate.

The submitted plans submitted with the subject application indicate a crest at only RL 25.00 which is not supported for the following reasons.

- The proposed crest is 480mm below what the DCP requires and 180mm below what Development Engineering would accept with the use of a floodgate.
- The approval of a driveway crest below the level of the 1% AEP would be unprecedented within Randwick LGA and is not supported.
- The proposed crest will not even meet the level of the 5% AEP being RL 25.08 AHD. Should the food gate fail the basement would be susceptible to flood events at intervals less than the 5% AEP (1 in 20yr) event.

Drainage Issues

The drainage plans by ACE Civil Engineers indicate stormwater will be discharged to a large infiltration area in the rear yard. There is also a smaller one in the front setback.

The proposed location of the infiltration areas will not comply with Council's Private Stormwater code which requires a minimum setback of 3m from any structure.

This 3m setback requirement may only be varies if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure. This has not been submitted.

The large rear infiltration area is immediately abutting and upstream of the rear basement wall and the resulting impact of hydrostatic pressures on the basement and changes in subsurface flow needs to be specifically addressed by a structural/ hydraulic engineer.

Parking Layout Issues

The parking layout configuration is not supported for the following reasons.

- There is a high reliance on mechanical devices with both car-stackers and a car-turntable proposed. It is considered however that with some minor modifications all the car spaces could be accessed without the use of the turntable and consideration should be given to its deletion.
- The head clearance in the basement will be less than 3.50m. This will severely restrict the type of vehicles that can utilise the car-stackers. Two 4WD's for instance will not be able to use the same stacker which is problematic as they are designed for independent use. A minimum height clearance of 3.9m is required independent carstackers which will accommodate most vehicles.
- The bicycle space situated between carspace 9 and the lift well shall be relocated as it restricts access to the lift for occupants of carspaces 1-8
- There is a non-compliance in the parking aisle width opposite carspace 7 & 8 where only 5.665m is available. A minimum of 5.8m is required under AS 2890.1:2004. This issue can be resolved by deletion of the eastern motor-bike space. As only 1 motorbike space is required under the DCP there would be no objection to this from a parking perspective.
- Tandem Carspaces 9 & 10 will only be acceptable if they are allocated to the same unit.

Waste Management Issues

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 rooms for normal garbage and 1 x 240L bin per 2 rooms for recycling.

i.e. Garbage/recycling Bins Required = $8/2 = 4$ of each

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 = 4 (normal) + 4 (recycling) + 2 (FOGO) = 10 x 240L BINS

The submitted plans indicate a waste bin room that can accommodate only 6 x 240L bins and so will not meet the needs for the proposed development. In addition, no area for the storage of bulky waste has been provided.

The waste management arrangements are therefore not supported.

1.2. Development Landscaping

Landscaping Issues

There is no vegetation within the development site that will pose a constraint to the development, consistent with past comments and consents.

Permission will be given to remove the most northern street tree from the nature strip to allow for the vehicle crossing and basement ramp in this same area, which again, is consistent with past consents. The remaining street tree further to the south will be protected and retained in the streetscape.

Canopy Trees Issues

The Stormwater, Architectural and Landscape Plans all propose a retaining wall around the perimeter of the rear setback, which does not appear warranted or necessary, and as it will heavily restrict soil volume and the future success of the canopy trees that will be planted in this same area, needs to be deleted to maximise the soil volume that is available for these trees, which could then be simply planted 'at grade'.

Similarly, the Infiltration Tanks that are nominated for both the front and rear setbacks will limit future soil volume and the success of the canopy trees that are to be planted in these same areas, with future root growth also having the potential to impact/affect the performance of the tanks. A more considered approach to these systems is sought where they will not be in conflict with the required amount of canopy trees, and will also not detract from the quality and usability of the Private and/or Common Open Spaces.

1.3. Environmental Health

Contamination Issues

Review of the geotechnical investigation (Aargus, 18 June 2018) identifies the presence of near-surface fill comprising sand and concrete (0–0.3 m) and a raised fill area retained by a ~0.7 m wall, indicating that uncontrolled fill may be present across parts of the site.

The geotechnical investigation did not include environmental sampling and is not sufficient to confirm the absence of contamination.

Given the proposed basement excavation, there is a low likelihood of historical industrial contamination but a low–moderate risk of localised contamination or asbestos fragments within fill which may impact spoil handling and disposal. A Stage 1 PSI with targeted sampling of fill, or equivalent condition-based verification during earthworks, is recommended.

Acoustic Amenity Issues

Given the scale of the proposed residential flat building, the proximity of sensitive residential receivers on all boundaries, and the inclusion of noise-generating elements such as basement vehicle movements, car stackers, mechanical plant (AC Units) and communal open space, an acoustic assessment is required to ensure that the development does not cause offensive noise to adjoining properties in accordance with the Protection of the Environment Operations Act 1997.

The acoustic report should assess operational noise using the NSW Noise Policy for Local Government (NPLG) for residential noise sources, the Australian Standard AS/NZS 2107:2016 for internal noise amenity, the Apartment Design Guide acoustic privacy provisions, and the acoustic objectives of Randwick DCP 2013.

The report should quantify predicted noise impacts and specify mitigation measures—such as acoustic glazing, plant attenuation, building layout refinement, and treatment of communal areas—to demonstrate that the development will maintain appropriate acoustic privacy and avoid offensive noise impacts on neighbouring dwellings.

Appendix 2: Applicant's Written Request Seeking to Justify the Contravention of the Number of Storeys Development Standard



D8/26

**CLAUSE 4.6 VARIATION REQUEST TO
STOREY HEIGHT DEVELOPMENT STANDARD
PURSUANT TO SECTION 175(2) OF THE SEPP
(HOUSING) 2021**

57 Hannan Street, Maroubra

Demolition of the existing structures and construction of a part-8 and part-9 storey low and mid-rise (LMR) affordable housing residential flat building comprising 8 apartments (2 x 2-bedroom and 6 x 3-bedroom) and basement parking for 10 parking spaces

PREPARED BY

ABC PLANNING PTY LTD

NOVEMBER 2025

p 02 9310 4979 ■ m 0412 622 643

e anthony@abcplan.com.au

PO BOX 6081, Malabar, NSW 2036 ■ ABN 99 090 382 488

**CLAUSE 4.6 VARIATION REQUEST TO STOREY HEIGHT DEVELOPMENT STANDARD
PURSUANT TO SECTION 175(2) OF SEPP (HOUSING) 2021**

This Clause 4.6 variation request has been prepared to accompany the development application (DA) for the demolition of the existing structures and construction of a part-8 and part-9 storey low and mid rise (LMR) residential flat building (including affordable housing) comprising 8 apartments (2 x 2-bedroom and 6 x 3-bedroom) and basement parking for 10 parking spaces at No. 57 Hannan Street, Maroubra.

The site is zoned R3 Medium Density Residential under the provisions of the *Randwick Local Environmental Plan 2012* (RLEP).

The proposal includes the following works:

- Demolishing the existing dwelling and associated structures on the site
- Constructing a part-8 and part-9 storey LMR affordable housing residential flat building comprising:
 - Basement parking for a total of 10 parking spaces (including 4 double car stackers and 2 tandem parking spaces, 2 motorbike spaces and 3 bicycle spaces)
 - Residential flat building containing a total of 8 apartments on Ground Level to Level 8 (2 x 2-bedroom apartments and 6 x 3-bedroom apartments)
 - Dedicating 2 of the apartments as affordable housing (Units 2 and 3)
 - Residential storage on the Basement Level
 - Services room on the Basement Level
 - Waste room on the Basement Level
 - Driveway at the northern end of the site leading from Hannan Street to the Basement Level
 - Pedestrian path leading from Hannan Street along the southern part of the site to the communal lobby on the Ground Floor
 - Communal open space at the rear of the site
 - Lifts and stairs to each level of the buildings
 - Landscaping around the perimeters of the building on the Ground Floor

The proposal results in a non-compliance with Section 175(2) of the *State Environmental Planning Policy 2021* (Housing SEPP), which relates to storey height. As such, this Clause 4.6 variation request has been prepared in accordance with Clause 4.6 of the RLEP 2012:

Clause 4.6 Exceptions to development standards

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

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

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Note—

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

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) (Repealed)

(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 6.27(4),
- (cb), (cc) (Repealed)
- (cd) clause 6.31.

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 of the storey height development standard and provides an assessment of the relevant matters in Clause 4.6 of the RLEP 2012.

This Clause 4.6 variation request demonstrates that compliance with the development standard relating to storey 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 RLEP 2012. This Clause 4.6 variation request also demonstrates that the proposed development will be consistent with the objectives of the storey height development standard and the zoning of the site.

Development Standard to be Varied

Chapter 6 - Low and Mid Rise Housing of the Housing SEPP applies to the proposed residential flat building development on the site zoned R3 Medium Density Residential. The subject site is located in an LMR housing inner area, being approximately 265m walking distance from Maroubra Junction Town Centre.

Pursuant to Section 175(2) of Chapter 6 of the Housing SEPP, the site is subject to a maximum storey height of **6 storeys**.

The proposal comprises a part-8 and part-9 storey residential flat building representing a variation to the storey height development standard.

Justification for Contravention of the Development Standard

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

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

5-Part test

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

The 5-Part Test is summarised as follows:

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

- 1. objectives of the development standard are achieved notwithstanding the non-compliance**
- 2. underlying objective or purpose is not relevant to the development*

3. underlying objective or purpose would be defeated or thwarted if compliance was required
4. development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard
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 storey height control, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table.

Consistency with the objectives of the development standard in the Housing SEPP	
Objectives	Assessment
<p>Chapter 6 Low and mid rise housing</p> <p>162 Aim of chapter</p> <p><i>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.</i></p>	<p>The non-compliant storey height facilitates the provision of an LMR affordable housing residential flat building in a well-serviced location that is in close proximity to public transport, services and public open space. The subject site is located approximately 265m walking distance from Maroubra Junction Town Centre.</p>
Consistency with the objectives of the R3 Medium Density Residential zone	
Objectives	Assessment
<ul style="list-style-type: none"> • To provide for the housing needs of the community within a medium density residential environment. • To provide a variety of housing types within a medium density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to 	<p>The site is zoned R3 Medium Density Residential under the provisions of RLEP 2012.</p> <p>The proposed storey height variation does not raise any inconsistency with the ability of the proposal to achieve the objectives of the R3 Medium Density Residential zone.</p> <p>The proposal is consistent with the objectives of the R3 zone as follows:</p> <ul style="list-style-type: none"> • Despite the storey height variation, the proposal will provide improved housing choice and affordability in proximity to nearby services and facilities within a medium-density residential environment where housing is in demand.

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<p><i>the desired future character of the area.</i></p> <ul style="list-style-type: none"> • <i>To protect the amenity of residents.</i> • <i>To encourage housing affordability.</i> • <i>To enable small-scale business uses in existing commercial buildings.</i> 	<ul style="list-style-type: none"> • The proposal includes a mix of 2-bedroom and 3-bedroom apartments, which will assist in promoting housing choice, flexibility and affordability. • The non-compliant storey height facilitates the provision of additional affordable housing on the site in a well-serviced location. • The proposal is of a high standard of design, inclusive of the storey height non-compliance, that will have a positive impact on the subject site and the surrounding streetscape. • The subject site is located in a low and mid-rise housing inner area, pursuant to Chapter 6 of the Housing SEPP. The site is thereby located in an area undergoing transition. The proposed height and scale are consistent with that contemplated by Chapter 2 – Affordable Housing of the Housing SEPP (Sections 16(1) and Section 16(3)) and will therefore contribute to the desired future character of the area. • The non-compliant storey height will not unreasonably impact the amenity of neighbouring properties and the streetscape in terms of overshadowing, privacy and view loss, noting that the proposal complies with the building height and FSR development standards. • The proposal will not inhibit other land uses that provide facilities or services to meet the day to day needs of residents. <p>Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the storey height variation.</p>
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Compliance with the development standard is unreasonable and unnecessary as the proposed storey height and bulk are of an appropriate form and scale and are compatible with surrounding development and the desired future character for the locality, and meet 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 storey height development standard include:

- Despite the storey height non-compliance, the proposed 8-storey LMR affordable housing residential flat building is in correlation with the allowable building height of 28.6m. It is noted that the maximum building height of the proposed development (28.38m) is below the 28.6m building height control.
- The proposal complies with the building height and FSR development standards pursuant to Sections 16(1) and 16(3) of the Housing SEPP. On this basis, the proposal is considered to be within a generally compliant building envelope, notwithstanding the storey height non-compliance.
- The storey height non-compliance will not be detrimental to the streetscape and surrounding properties as the proposed bulk and scale are compatible with neighbouring high-rise buildings to the east and south of the subject site. The bulk and scale of the proposal are compatible with the existing and desired future character of the locality, which is undergoing transition. Refer to the oblique aerial photo below showing the existing high-rise development to the east and south of the subject site.



Figure 1: Oblique aerial photo of the site and surrounds, noting high-rise development to the east and south of the subject site (Source: Nearmap, 2025)

- The upper levels are recessed, and each level of the building is articulated with a variety of architectural features, including balconies, privacy screens, eaves, and a range of materials and finishes, to minimise the perceived bulk and scale impacts of the storey height non-compliance.
- The proposed development, inclusive of the storey height non-compliance, allows the provision of a diversity of housing types (a mix of 2-bedroom and 3-bedroom apartments), including affordable housing, which will assist in meeting the NSW Government housing targets for the Eastern City District and Randwick Council. The State Government has introduced the Low and mid rise housing policy whilst also allowing for affordable housing to be provided in addition to the height and FSR standards under the LMR provisions. This signals a clear intent to provide increased density in well serviced locations. The State Government also did not impose minimum lot size or lot width requirements, which is also considered to confirm that the proposed form of development is consistent with that anticipated by the newly introduced Policies.
- The non-compliant storey height facilitates the provision of additional affordable housing on the site in a well-serviced location that is in close proximity to public transport, services and public open space. The subject site is located approximately 265m walking distance from Maroubra Junction Town Centre and 300m walking distance to bus stops located along Maroubra Road.
- The proposed development, inclusive of the storey height variation, has been designed so as not to have an unreasonable impact on views from the public domain or surrounding properties.
- As demonstrated in the Shadow Diagrams submitted with this DA, the additional overshadowing to the surrounding lots falls predominantly on roofs. The additional overshadowing of the surrounding lots is associated with a built form (building height and FSR) that is compliant with Sections 16(1) and 16(3) of the Housing SEPP. In this regard, the overshadowing resulting from the proposed development (inclusive of the storey height non-compliance) is consistent with the emerging character of the medium-density residential area, in accordance with Chapter 6 Low and Mid Rise Housing of the Housing SEPP.
- The proposal provides a high level of internal amenity as demonstrated by compliance with the key amenity criteria within the SEPP (Housing) 2021, including solar access, cross ventilation, private open space, apartment and room sizes, storage and car parking. The excess storey height, thereby does not compromise the ability to meet or outperform the ADG criteria.
- The proposal includes a high-quality landscape design that includes the planting of a variety of trees, shrubs and turf around the perimeters of the building on the Ground Floor. The proposed landscaping will enhance the amenity and visual setting of the proposed residential flat building and will soften the visual built form of the

development, notwithstanding the storey height non-compliance. The design of the proposal allows for significant outperformance of the deep soil landscape requirements under the ADG and the Tree Canopy Guide for Low and Mid Rise Housing. The proposal includes deep soil landscaped area constituting 20.3% of the site, which is well beyond the 7% requirement for LMR housing on this site and the ADG. The proposed canopy cover of 15.1% complies with the 15% requirement for LMR housing on this site. Such additional deep soil landscaping assists in providing effective landscape buffers to the streetscape and to neighbouring properties, whilst also providing for a landscaped outlook from the proposed apartments. The extensive deep soil planting areas around the perimeter of the site are considered to soften the overall height, bulk and scale, inclusive of the storey height variation.

- The proposal is consistent with the R3 Medium Density zone objectives and the storey height objectives.
- The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represent 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 respond 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 storey 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))
- delivery and maintenance of affordable housing (Section 1.3(d))
- protect the environment (Section 1.3(e))
- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3 (g))
- proper construction and maintenance of buildings, including the protection of the health and safety of their occupants (Section 1.3(h))

The proposed development will be in the public interest because it is consistent with the objectives of the storey height development standard under Section 175(2) of the Housing SEPP.

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at No. 57 Hannan Street, Maroubra and is requested to be looked upon favourably by the consent authority.

Appendix 3: Housing SEPP 2021 Compliance Tables

1. Chapter 2 ‘Infill Affordable Housing’ Compliance Table

Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
15C Development to which division applies		
(1) This division applies to development that includes residential development if—		
(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and	Residential flat buildings are permitted in the zone, with consent.	Yes, complies
(b) the affordable housing component is at least 10%, and	25.8% (257.4sqm) – two units.	Yes, complies
(c) all or part of the development is carried out— (i) or 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 in an accessible area.	Yes, complies
(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.	Affordable housing not required in another policy, EPI or planning agreement.	Yes, complies
16 Affordable housing requirements for additional floor space ratio		
(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).	2.01:1 (994.1sqm)	Yes, complies
(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— $\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$	Minimum = 10% 25.8% (257.4sqm) – two units.	Yes, complies
(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 land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).	28.4m (to the roof parapet)	Yes, complies
(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	N/A	N/A
19 Non-discretionary development standards—the Act, s 4.15		
(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—		
(a) a minimum site area of 450m ² ,	Proposed = 494.4m ²	Yes, complies
(b) a minimum landscaped area that is the lesser of— (i) 35m ² per dwelling, or (ii) 30% of the site area,	Minimum = 148.38m ² Proposed = 149.3m ²	Yes, complies
(c) a deep soil zone on at least 15% of the site area, where—	As per clause 19(3), not	N/A

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Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
(i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,	applicable as Chapter 4 applies. See below.	
(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,	As per clause 19(3), not applicable as Chapter 4 applies. See below.	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,	Minimum = 2 (2x 3-bedroom AH dwellings) Total Minimum = 10 (see below) Proposed = 10	Yes, complies
(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 = 8 (2x 2-bedroom, 4x 3-bedroom) Total Minimum = 10 (see above) Proposed = 10	Yes, complies
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	Min 2 bed = 70m ² Min 3 bed = 90m ² Proposed 2 bed = 93m ² Proposed 3 bed = 128.7m ²	Yes, complies
(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,	N/A	N/A
(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m ² , (ii) for each dwelling containing 2 bedrooms—90m ² , (iii) for each dwelling containing at least 3 bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms.	N/A	N/A
(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	As above, (2)(c) and (d) do not apply.	Yes
20 Design requirements		
(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.	N/A	N/A
(2) Subsection (1) does not apply to development to which Chapter 4 applies.	N/A	N/A
(3) Development consent must not be granted to development under this division unless the consent	Council not satisfied that as the area is undergoing	No, see Key Issues

Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
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.	transition, the proposed development is compatible with the desired future character of the precinct.	
21 Must be used for affordable housing for at least 15 years		
(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	Details of the registered community housing provider have been provided.	Conditional.
(2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	N/A	N/A
22 Subdivision permitted with consent		
Land on which development has been carried out under this division may be subdivided with development consent.	No land subdivision proposed.	N/A

2. Chapter 4 ‘Design of Residential Apartment Development’ Compliance Table

Standard	Proposal	Compliance
Part 4: Design of residential apartment development		
148 Non-discretionary development standards for residential apartment development		
(2) The following are non-discretionary development standards—		
(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,	The proposed development does not provide sufficient parking specified in Part 3J of the Apartment Design Guide.	No, see Key Issues
(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,	The proposed development provides sufficient minimum internal area for the 2 and 3 bedroom units.	Yes, complies
(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.	The proposed development provides sufficient F2C heights (2.7m for habitable areas, 2.4m for non-habitable areas).	Yes, complies

3. Chapter 6 ‘Low and Mid Rise Housing’ Compliance Table

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Standard	Proposal	Compliance
Part 4 'Residential flat buildings and shop top housing'		
Division 1 Preliminary		
174 Development permitted with development consent		
Development for the purposes of residential flat buildings is permitted with development consent on land to which this chapter applies in a low and mid rise housing area in Zone R2 Low Density Residential or R3 Medium Density Residential.	Proposal is for a residential flat building in a low and mid rise housing area in R3 Medium Density Residential.	Yes, complies
175 Development standards—low and mid rise housing inner area		
(1) This section applies to land in a low and mid rise housing inner area in Zone R3 Medium Density Residential or R4 High Density Residential.	The site falls within a low and mid rise housing inner area in Zone R3 Medium Density, being land within 400m walking distance of the 'Randwick town centre and light rail station'.	Yes, complies
(2) Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.	Proposal = 9 storeys	No, see Clause 4.6 assessment above.
177 Landscaping—residential flat buildings or shop top housing		
(1) This section applies to land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	The site falls within a low and mid rise housing inner area in Zone R3 Medium Density.	Yes, complies
(2) Development consent must not be granted for development for the purposes of residential flat buildings or shop top housing unless the consent authority has considered the <i>Tree Canopy Guide for Low and Mid Rise Housing</i> , published by the Department in February 2025.	Proposed DSPA = 20.3% (being 100.2m ²). Proposed canopy tree coverage = Council's Landscape Officer is concerned regarding the viability of canopy trees due to rear perimeter retaining walls and the proposed location of infiltration tanks.	No.
178 Minimum lot size for residential flat buildings or shop top housing		
(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	Proposal is for a residential flat building in a low and mid rise housing area in R3 Medium Density Residential.	Yes, complies
(2) A requirement specified in another environmental planning instrument or development control plan in relation to the following does not apply to development that meets the standards in section 180(2) or (3)— (a) minimum lot size, (b) minimum lot width.	Noted – however proposal seeks consent using the 'infill affordable housing' provisions of the SEPP, which are relevant in terms of minimum lot size in this case.	N/A, see Appendix 3 for details on lot size min requirement.

Standard	Proposal	Compliance
Part 4 ‘Residential flat buildings and shop top housing’		
	Noted regarding minimum lot width.	
Division 2 Non-discretionary development standards—the Act, s 4.15		
180 Non-discretionary development standards—residential flat buildings and shop top housing in Zone R3 or R4		
(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	Proposal is for a residential flat building in a low and mid rise housing area in R3 Medium Density Residential.	Yes, complies
(2) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing inner area—		
(a) a maximum floor space ratio of 2.2:1,	2.01:1 (994.1sqm)	See assessment above
(b) for residential flat buildings—a maximum building height of 22m,	28.4m (to the roof parapet)	See assessment above

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Appendix 4: Apartment Design Guide Compliance Table

Clause	Design Criteria	Proposal	Compliance												
Part 3: Siting the Development															
3D-1	Communal and Public Open Space														
	Communal open space has a minimum area equal to 25% of the site.	15.1% (74.8sqm)	No, see Key Issues												
	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).	Achievable, however will likely be overshadowed as a result of future development in the LMR.	See Key Issues												
3E-1	Deep Soil Zone														
	Deep soil zones are to meet the following requirements: 3m dimension, 7% site area	Proposed DSPA = 20.3% (being 100.2m ²).	Yes, complies												
3F-1	Visual Privacy														
	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="320 913 810 1350"> <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 measuring privacy separation distances between neighbouring properties.</p>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><u>Ground floor to third floor (1-4 storeys)</u></p> <ul style="list-style-type: none"> • 2m to north side setback. • 2.6m to south side setback. • 7.2m to east rear setback (GF). • 5.5m to east rear setback (1st floor to 3rd floor) <p><u>Fourth floor (5 storeys)</u></p> <ul style="list-style-type: none"> • 2m to north side setback. • 2.6m to south side setback. • 5.5m to east rear setback (1st floor to 3rd floor) <p><u>Fifth to seventh floor (6-8 storeys)</u></p> <ul style="list-style-type: none"> • 2.9m to north side setback. • 2.6m to south side setback. • 6.9m to east rear setback. <p><u>Eighth floor (9th storey)</u></p> <ul style="list-style-type: none"> • 4.15m to north side setback. • 3.75m to south side setback. • 9.3m to east rear setback. 	No, see Key Issues
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													
3J-1	Bicycle and Car Parking														
	For development in the following locations: <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or 	See parking rate in Housing SEPP, however visitor parking rate applies, being 1 space for every 7 dwellings.	No, see Key Issues.												

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Clause	Design Criteria	Proposal	Compliance
	<ul style="list-style-type: none"> on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p>	<p>Proposed = 0 visitor spaces.</p> <p>See bicycle rate in Part B7 RDCP.</p>	
Part 4: Designing the Building			
4A	Solar and Daylight Access		
	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at midwinter.</p>	<p>Minimum = 6 (or 5.6) apartments</p> <p><u>Proposed living room windows</u> The northern living rooms require a performance solution as they are located within 3m of the northern side boundary. Details of the window design solution has not been provided, which will likely impact solar penetration.</p> <p><u>Proposed POS</u> Eastern boundaries receive adequate solar access</p>	<p>No, see Key Issues</p>
	<p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>Minimum = 2 (or 1.2) apartments</p> <p>All apartments receive some direct sunlight.</p>	<p>Yes, complies</p>
4B	Natural Ventilation		
	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>Min = 5 (or 4.8) apartments</p> <p>All apartments are cross ventilated.</p> <p>The windows to habitable rooms facing side boundaries require a performance solution as they are located within 3m of the northern side boundary. Details of the window design solution has not been provided, which will likely impact natural ventilation.</p>	<p>No, see Key Issues</p>

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Clause	Design Criteria	Proposal	Compliance															
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	<18m.	Yes, complies															
4C	Ceiling Heights																	
	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> Habitable Rooms – 2.7m Non-habitable – 2.4m Attic spaces – 1.8m at edge with min 30 degree ceiling slope Mixed use areas – 3.3m for ground and first floor <p>These minimums do not preclude higher ceilings if desired.</p>	2.7m to habitable rooms, 2.4m to non-habitable rooms, adequate to level 9 attic space in pitched roof.	Yes, complies															
4D	Apartment Size and Layout																	
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> Studio - 35m² 1 bedroom - 50m² 2 bedroom - 70m² 3 bedroom - 90m² 	<p>Min 2 bed = 70m² Min 3 bed = 90m²</p> <p>Proposed 2 bed = 93m² Proposed 3 bed = 128.7m²</p>	Yes, complies															
	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.	Satisfactory	Yes, complies															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Satisfactory	Yes, complies															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Satisfactory	Yes, complies															
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Satisfactory	Yes, complies															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Satisfactory	Yes, complies															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments 	Satisfactory	Yes, complies															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Satisfactory	Yes, complies															
4E	Private open space and balconies																	
	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m²</td> <td>2.4m</td> </tr> </tbody> </table>	Dwelling type	Minimum area	Minimum depth	Studio	4 m ²	-	1 bedroom	8 m ²	2m	2 bedroom	10 m ²	2m	3+ bedroom	12 m ²	2.4m	Sufficiently sized balconies provided to the eastern side with adequate depth and area.	Yes, complies
Dwelling type	Minimum area	Minimum depth																
Studio	4 m ²	-																
1 bedroom	8 m ²	2m																
2 bedroom	10 m ²	2m																
3+ bedroom	12 m ²	2.4m																

Clause	Design Criteria	Proposal	Compliance
	The minimum balcony depth to be counted as contributing to the balcony area is 1m.		
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Apt 1 provided with adequately sized courtyard.	Yes, complies
4F	Common Circulation and Spaces		
	The maximum number of apartments off a circulation core on a single level is eight.	Satisfactory	Yes, complies
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A	N/A
4G	Storage		
	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio apartments - 4m³ • 1 bedroom apartments - 6m³ • 2 bedroom apartments - 8m³ • 3+ bedroom apartments - 10m³ <p>At least 50% of the required storage is to be located within the apartment.</p>	Adequate storage provided to each unit in accordance with minimums.	Yes, complies

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Appendix 5: DCP Compliance Table

1.1. Part B3: Ecologically Sustainable Development

Council is satisfied that the proposed development meets the relevant ESD requirements in accordance with Part B3 of RDCP 2013.

1.2. Part B4: Landscaping and Biodiversity

Council is not satisfied that the proposed development meets the landscape requirements in accordance with Section 177(2) of the Housing SEPP and the *Tree Canopy Guide for Low and Mid Rise Housing*, as well as Part B4 of RDCP 2013. Refer to detailed assessment by Council's Landscape Officer at the Appendix 1 section of this report.

1.3. Part B5: Preservation of Trees and Vegetation

Council is satisfied that the proposed development meets the tree preservation requirements in accordance with Part B5 of RDCP 2013. Refer to detailed assessment by Council's Landscape Officer at the Appendix 1 section of this report.

1.4. Part B6: Recycling and Waste Management

Council is not 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 the Appendix 1 section of this report.

1.5. Part B7: Transport, Traffic, Parking and Access

Council is not satisfied that the proposed development meets the parking requirements in accordance with Section 19(2) of the Housing SEPP and Section 148(2)(a) of the Housing SEPP. Refer to detailed assessment by Council's Development Engineer at the Appendix 1 section of this report and the Key Issues above.

1.6. Part C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance
2.	Site Planning		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area is to be landscaped open space.	Minimum = 392.25m ² Complies with requirements under section 19(b) of Housing SEPP.	Yes, complies
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	Proposed DSPA = 20.3% (being 100.2m ²). Complies with requirements under section 177(2) of Housing SEPP.	Satisfactory
2.3	Private and communal open space		
2.3.1	Private open space		

DCP Clause	Control	Proposal	Compliance
	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.	POS adjoins living rooms, mostly to the east that allow passive surveillance.	Yes, complies
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	Satisfactory as per ADG requirements.	Yes, complies
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) Adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	The proposed communal open space is not adequately sized and will likely be overshadowed from future development within the locality. The area has not been designed to incorporate any recreation uses and facilities.	No, see Key Issues
3. Building Envelope			
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	Building depth of 8m north to south. Dwellings are dual aspects and provide sufficient cross ventilation.	Yes, on merit.
3.4	Setbacks		
3.4.1	Front setback		
	(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street.	Front setback of 5.6m. In an area of transition, considered appropriate.	Yes, on merit.

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DCP Clause	Control	Proposal	Compliance
	<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 swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>		
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> - 20m and above: 4m <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <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>Side setbacks do not recognise of the intended scale and streetscape character. In addition, side setbacks do not achieve the ADG required separation distances.</p> <p>Whilst some portions of the building may comply with the setback controls in Part C2 of RDCP, this section of the RDCP does not envision residential flat buildings greater than 12 metres (or 4 storeys) in heights. As such, the controls relate to a form significantly smaller than that proposed under the new “low and mid rise housing” provisions of the Housing SEPP.</p>	<p>No.</p>
3.4.3	Rear setback		

DCP Clause	Control	Proposal	Compliance
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater.	As above in relation to side setbacks.	No.
4. Building Design			
4.1 Building façade			
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs. 	The proposed development has a consistent envelope to all floors, failing to have a form that divides the envelope into sections that present a human scale and contribute the existing local character of the area. The built form and architectural treatment are indistinct between the approved lower floors and approved upper floors, which detracts from the desirable elements of local character. See design excellence for further details.	No, see clause 6.11 of RLEP assessment above.
4.2 Roof design			
	<ul style="list-style-type: none"> (i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. (iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms. (v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be 	The applicant has failed to show any roof services including the lift overrun, plant and any A/C condensers.	No.

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DCP Clause	Control	Proposal	Compliance
	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.		
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	The proposed development has a consistent envelope to all floors, failing to have a form that divides the envelope into sections that present a human scale and contribute the existing local character of the area. The built form and architectural treatment are indistinct between the approved lower floors and approved upper floors, which detracts from the desirable elements of local character.	No.
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Generally 2.7m to habitable rooms, except to level 9 room in attic roof space, of which is adequate.	Yes, complies
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Entrances clearly distinguishable. However, the pedestrian access is to the southern side of the site, which is not a positive functional and safety design.	No.
4.6	Internal circulation		
	(i) Enhance the amenity and safety of circulation spaces by: <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. 	Satisfactory.	Yes, complies

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 		
4.7	Apartment layout		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. <p>Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.</p>	<p>The windows to habitable rooms facing side boundaries require a performance solution as they are located within 3m of the northern side boundary. Details of the window design solution has not been provided, which will likely impact natural ventilation.</p>	<p>No, see Key Issues</p>
4.8	Balconies		
	<p>(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.</p>	<p>Satisfactory.</p>	<p>Yes, complies</p>
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass 	<p>The proposed development includes external walls sections that have a repetitious façade treatment for all floors of the building. The rendered and painted walls over a building of this scale are not supported. See design excellence for further details.</p>	<p>No, see clause 6.11 of RLEP assessment above.</p>

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DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>		
4.12	Earthworks		
	<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. (This does not apply to swimming or spa pool structures).</p> <p>iv) Setback the outer edge of any excavation, piling or sub4 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.</p>	<p>Proposed basement level within 200mm of the northern and southern side boundaries. The submitted Geotechnical Investigation Report, prepared by Aargus (Report No. GS7281-1A, 18th June 2018) is inadequate in considering the submitted development application, its scope of works and potential impacts.</p>	<p>No.</p>
5. Amenity			
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	<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 three hours between 8am and 4pm on 21 June (mid winter).</p>	<p>Minimum = 6 (or 5.6) apartments</p> <p><u>Proposed living room windows</u> The northern living rooms require a performance solution as they are located within 3m of the northern side boundary. Details of the window design solution has not been provided, which will likely impact solar penetration.</p> <p>Proposed POS</p>	<p>No, see Key Issues</p>

DCP Clause	Control	Proposal	Compliance
		Eastern boundaries receive adequate solar access	
Solar access for surrounding development			
	<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>	Submitted solar diagrams demonstrate that the proposed development will overshadow the living rooms windows and balconies adjoining dwellings, however the plans do not demonstrate the full impact of the overshadowing.	No, see Key Issues
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	The windows to habitable rooms facing side boundaries require a performance solution as they are located within 3m of the northern side boundary. Details of the window design solution has not been provided, which will likely impact natural ventilation.	No, see Key Issues
5.3	Visual privacy		
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p>	The lack of separation between the proposed development and its respective side and rear boundaries results in unacceptable visual privacy. This includes from habitable windows and balconies.	No, see Key Issues

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DCP Clause	Control	Proposal	Compliance
	(v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 		
5.5	View sharing		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (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.	The development will not impact any existing view corridors.	Satisfactory
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development. (iii) For residential flat buildings, provide direct, secure access	The main entrance is located along the southern side of building, which fails to provide adequate safety and security for residents.	No.

DCP Clause	Control	Proposal	Compliance
	between the parking levels and the main lobby on the ground floor.		
6. Car parking and access			
6.1	Location		
	<p>(v) For residential flat buildings, comply with the following:</p> <p>(a) Car parking must be provided underground in a basement or semi-basement for new development.</p> <p>(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.</p> <p>(c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.</p>	Basement carpark provided, in the location of the previously approved development on the site.	Yes, complies
6.2	Configuration		
	<p>(iv) Provide basement or semi-basement car parking consistent with the following requirements:</p> <p>(a) Provide natural ventilation.</p> <p>(b) Integrate ventilation grills into the façade composition and landscape design.</p> <p>(c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding.</p> <p>(d) Use landscaping to soften or screen any car park enclosing walls.</p> <p>(e) Provide safe and secure access for building users, including direct access to dwellings where possible.</p> <p>(f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as:</p> <ul style="list-style-type: none"> - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to 	Satisfactory	Yes, complies

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DCP Clause	Control	Proposal	Compliance
	<p>the extent visible from the street as a minimum.</p> <ul style="list-style-type: none"> - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain. 		

1.7. Part C3: Adaptable and Universal Housing

DCP Clause	Control	Proposal	Compliance
3. Adaptable Housing			
2.1	Site Layout Options		
	<p>i) In addition to the requirements of clause 2(i) controls, a minimum 20% of dwellings in new multi dwelling housing, shop top housing and residential flat buildings containing 10 or more dwellings must be adaptable dwellings and designed and constructed to a minimum Class C Certification under AS 4299 Adaptable Housing.</p>	<p>Only 8 dwellings proposed.</p>	<p>N/A</p>

1.8. Section F3: Sydney Airport Planning and Noise Impacts

DCP Clause	Controls	Proposal	Compliance
2	Airspace operations		
	<p>i) Submit to Council accurate and detailed drawings clearly indicating the height levels (above AHD) of various roof elements (including parapet, lift overrun, roof ridge and roof-mounted installations) for referral to SACL.</p> <p>ii) Landscaping must consider bird and obstacle hazard management and ensure trees to be planted are not capable of intruding the Obstacle Limitation Surface when mature (ie over 15 metres).</p> <p>iii) Submit to Council details on the proposed height of any crane that may be used during construction works for referral to SACL.</p>	<p>DA supported by Sydney Airport Corporation. See Appendix 1 for details.</p>	<p>Yes, complies</p>

Responsible officer: William Joannides, Environmental Planning Officer

File Reference: DA/1302/2025