

Randwick Local Planning Panel (Electronic) Meeting

Thursday 21 May 2026



RANDWICK LOCAL PLANNING PANEL (ELECTRONIC) MEETING

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting will be held online via Microsoft Team on Thursday, 21 May 2026.

Declarations of Pecuniary and Non-Pecuniary Interests

Development Application Reports

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Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D35/26

Subject: 1 Roma Avenue, Kensington (DA/1198/2025)


Executive Summary

Proposal:	Construction of a part two and part three storey residential dwelling ancillary to the Sacred Heart Monastery (an existing place of public worship) including tree removal, installation of retaining walls, temporary shoring and associated landscaping works.
Ward:	West ward
Applicant:	The Corporation of The Society of The Missionaries
Owner:	Sacred Heart College
Cost of works:	\$7,518,308.60
Reason for referral:	The development contravenes the development standard for floor space ratio by more than 10% and the application is classified as regionally significant development.

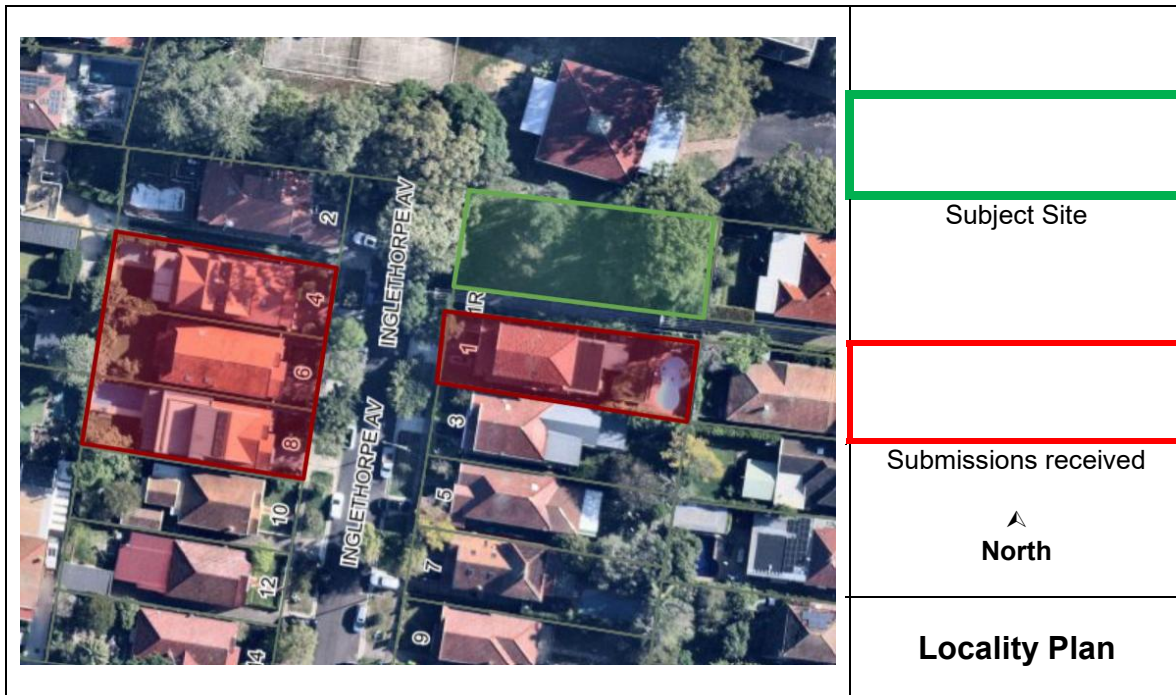
Recommendation

- A. That the RLPP is satisfied that the applicant's written request to vary the development standard relating to Floor Space Ratio (FSR) in Clause 4.4 of Randwick Local Environmental Plan 2012 have demonstrated that:
- i. Compliance with the relevant development standard is unreasonable and unnecessary in the circumstances of the case; and
 - ii. There are sufficient environmental planning grounds to justify the contravention of the relevant development standard.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/1198/2025 for the Construction of a part two and part three storey residential dwelling ancillary to the Sacred Heart Monastery (an existing place of public worship) including tree removal, installation of retaining walls, temporary shoring and associated landscaping works, at No. 1 Roma Avenue Kensington, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (med density res) - DA/1198/2025 - 1 Roma Avenue, KENSINGTON NSW 2033 - DEV - Randwick City Council

D35/26



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development contravenes the development standard for floor space ratio by more than 10% and is classified as regionally significant development under Clause 5 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 - Private infrastructure and community facilities over \$5 million (place of public worship).

The proposal seeks development consent for the construction of a residential dwelling comprising a part 2 and part 3 storey dwelling that is ancillary to a place of public worship (Sacred Heart Monastery) including tree removal, installation of retaining walls, associated ancillary, temporary shorting and landscaping works.

The key issues associated with the application relate to the FSR variation, three to four storey presentation to the streetscape, side setbacks, basement front setback, site coverage and deep soil.

The application was subject to a request for information which resulted in amendment and additional information as per the following:

- Reduction in FSR from 0.85:1 to 0.75:1;
- Reduction in overall building height by 300mm;
- Increased front setback of Level 2 from previous 6-6.5m setback to 8-8.5m (balconies) and central façade wall shifted further back to 9.2-9.5m to recess the upper level behind the gable of 1 Inglethorpe Ave.
- Reconfiguration of the basement to provide additional deep soil zones with the front and northern side setback of the development, creating a net increase from 170m² (24.2%) to 217m² (30.9%) (+57m²).
- Updated Clause 4.6 variation request, BASIX certificate, landscape plan set and Heritage Impact Statement.

The proposal is recommended for approval subject to non-standard conditions that require:

- The increase of the onsite deep soil provision through the reduction of hard paving along the rear elevation and the associated awning overhang.

- The removal of the front terrace over the driveway and pedestrian entrance to reduce site coverage, remove an excessive retaining wall from the public domain and provide a transition to the front setbacks along Inglethorpe Avenue.
- The provision of window and balcony privacy treatments to the southern side and eastern rear elevations respectively.

2. Site Description and Locality

The subject site is known as 1 Roma Avenue, Kensington and is legally described as Lot 272 in DP13208. The portion of the site subject to the development has an area of 701.9m², is regular in shape with an east-west orientation and has a 16.42m frontage to the cul-de-sac end of Inglethorpe Avenue and a depth of 42.71m. The site is predominantly vacant of structures and currently contains canopy trees, landscaping and decommissioned service facilities that form a part of the outer curtilage to the heritage listed Sacred Heart Monastery and Chapel (Local Item I-140) and Sacred Heart (Local Conservation Area – C3) located directly to the north of the site.

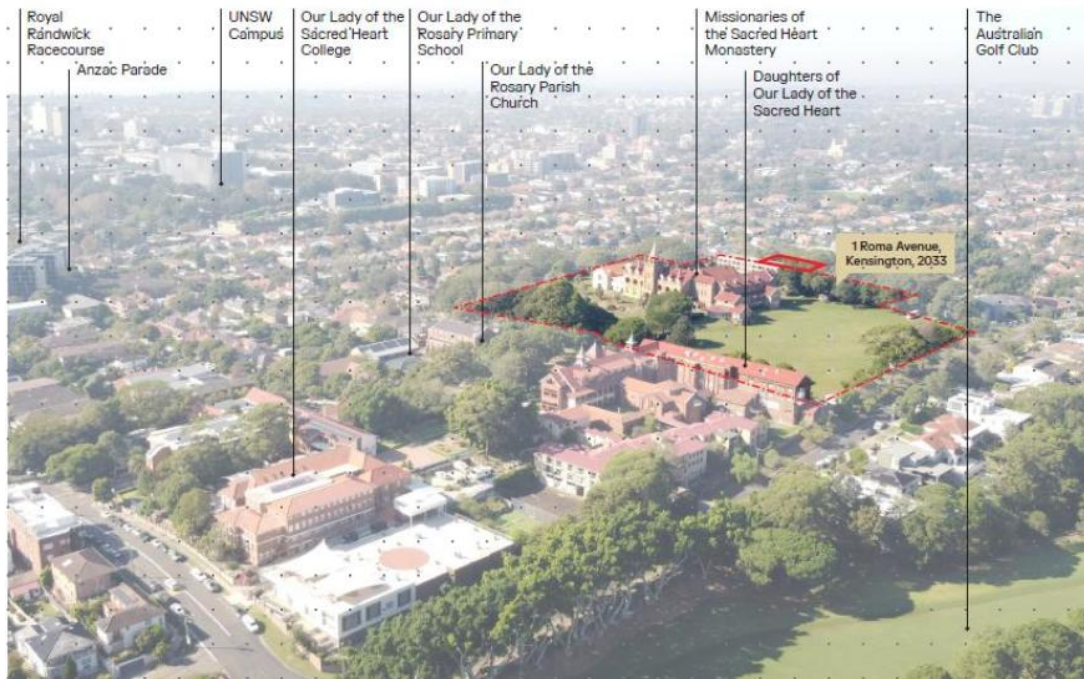


Figure 1: Site Context (Source: Applicant’s SEE)



Figure 2: Current street frontage and Pedestrian Path to Eastern Ave (Source: Applicant’s SEE)

The site slopes approximately 8.25m from the rear of the property to the street frontage and exhibits a similar crossfall from the southern residential boundary up to the northern monastery land. The crossfall within the site up to the monastery land and to the end of Inglethorpe Avenue limits pedestrian accessibility from street level and as a result the site is afforded with a public pedestrian access link along the southern boundary (Shown above in **Figure 2**) that also enables additional separation to the nearest southern residential neighbour at 1 Inglethorpe Avenue.

The site is zoned R2 low density residential and is bounded by dwelling houses to the east, west and south on Inglethorpe and Eastern Avenue typically ranging from 1-3 storeys in height, with larger examples elevated above the street adjoining the Monastery due to similar topographical conditions with the subject allotment. Refer to images below.



Figure 3: Streetscape context along Inglethorpe Avenue (Source: Google Maps)



Figure 4: Properties to the rear of the subject site along Eastern Avenue adjoining the Sacred Heart Monastery with a similar elevated context to the subject site (Source: Google Maps).

3. Relevant history

A pre-lodgement meeting (PL/25/2025) was held with the proponent regarding the proposed development with Council staff on the 9th of September 2025, where the following key issues were discussed in relation to the proposal:

- Bulk and scale of the development;
- Land use classification;
- Compliance with the R2 Zone objectives;
- Classification under the Building Code of Australia (BCA) or National Construction Code (NCC) the building may be classified as Class 3 (residential accommodation) or Class 9c (congregate care) rather than Class 1a (dwelling house), depending on the number of occupants, shared facilities, staffing, and fire safety provisions;
- The proposed FSR of 0.85:1 exceeded the 0.6:1 standard and requires a Clause 4.6 variation. The exceedance was considered substantial and unlikely to be supported without reducing bulk and scale;
- Recommendations included reducing the upper level, increasing setbacks, and adopting an attic-style roof to improve compatibility; and
- The site is detached from the heritage item, but is within the curtilage of the Sacred Heart Monastery and adjacent to a Heritage Conservation Area. Future development must be sympathetic in scale, form, and landscaping, with a Heritage Impact Statement required to address potential impacts;
- Retain significant landscape elements, including mature vegetation and trees listed on the Significant Tree Register;
- Include a Streetscape and View Analysis to assess visual impacts from public and private viewpoints;
- Compliance with site coverage, deep soil improvements, additional replacement tree canopy planting, side setbacks, private open space, visual privacy and overshadowing.
- Site access and entry design from the southern boundary Council pedestrian link.

It should be noted that the meeting was held in relation to the subject site and the property at 1A Waltham Street, Coogee that currently provides accommodation for the clergy of the Missionaries of the Sacred Heart. This other site at Waltham is proposed for redevelopment of market housing

and as a result the clergy are being relocated to 1 Roma Ave under the proposed development in DA/1198/2025.

4. Proposal

The proposal seeks development consent for the erection of residential accommodation comprising a part-2, part-3 storey residential accommodation that is ancillary to a place of public worship (Sacred Heart Monastery), including tree removal, installation of retaining walls, associated ancillary, temporary shoring and landscaping works, comprising of the following detailed works:

- 6 bedrooms with ensuite bathrooms;
- Study / Library and Chapel;
- Living spaces and amenities;
- External Juliet balconies to each bedroom / sitting area;
- Single-level basement comprising:
 - 5 car parking spaces
 - Waste storage
 - Plant facilities
- Associated landscaping works;
- Allowance for a future internal access connection to the Sacred Heart Monastery site; and
- Temporary shoring works to support excavation and construction.

Note: Subdivision does not form a part of the subject application, and the development will continue to be associated with the wider Sacred Heart Monastery and Church site under the address of 1 Roma Avenue, Kensington.



Figure 5: Photomontage of proposal (Source: Architectural Plans – Cortese)

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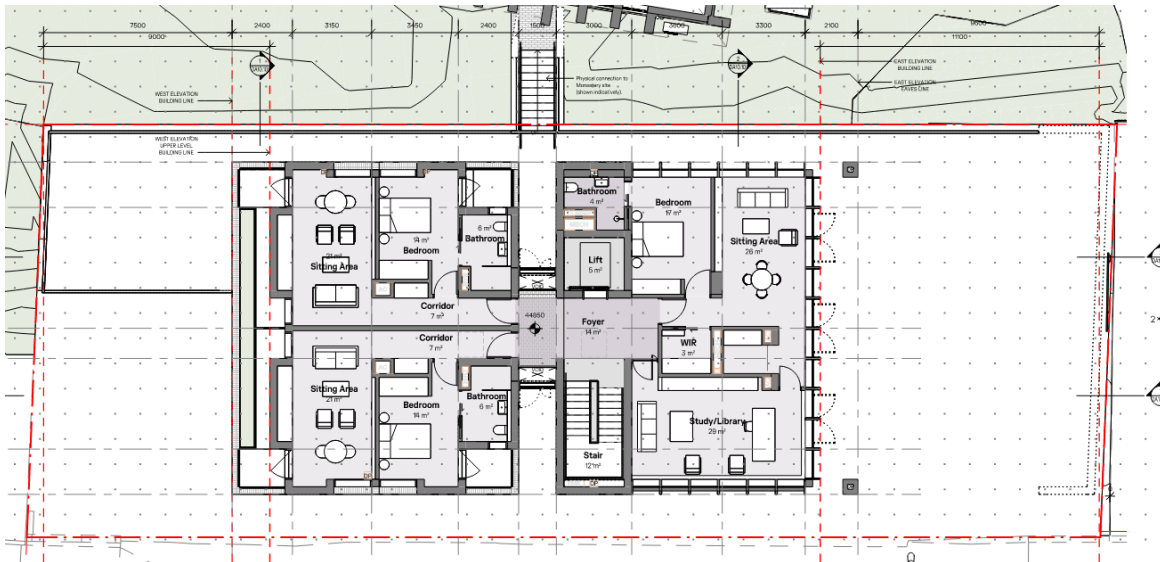


Figure 9: Level 2 (Source: Architectural Plans – Cortese)

Note: The above images represent the amended plans prepared over the course of the assessment, which have resulted in the following key changes to the proposal:

- Reduction in FSR from 0.85:1 to 0.75:1;
- Reduction in overall building height by 300mm;
- Increased front setback of Level 2 from previous 6-6.5m setback to 8-8.5m (balconies) and central façade wall shifted further back to 9.2-9.5m to recess the upper level behind the gable of 1 Inglethorpe Ave.
- Reconfiguration of the basement to provide additional deep soil zones with the front and northern side setback of the development, creating a net increase from 170m² (24.2%) to 217m² (30.9%) (+57m²).
- Updated Clause 4.6 variation request, BASIX certificate, landscape plan set and Heritage Impact Statement.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy. The following five (5) submissions were received as a result of the notification process:

- **Planning Consultant on behalf of 1 Inglethorpe Ave, Kensington**
- **4 Inglethorpe Ave, Kensington**
- **6 Inglethorpe Ave, Kensington**
- **8 Inglethorpe Ave, Kensington**
- **No Address provided**

Issue	Comment
<p>Clarification on the definition of the rectory as ancillary to the place of public worship and whether this is permissible in the R2 zone.</p> <p>Traffic report classifies development as a 'boarding house'. Claim that the development provides independent residential accommodation and is not linked to the place of public worship use in accordance with Planning Circular PS 21-008.</p>	<p>Places of public worship are permitted in the R2 Zone and it is noted that the proposal has been amended to enable future connectivity with the monastery and chapel buildings further to the north of the proposal area that are the primary use of the wider site. In addition, the subject ancillary residential accommodation is situated with a direct interface to the place of public worship and is accommodated under the same property address of 1 Roma Avenue, Kensington. Subdivision is not sought under the subject application and as such the existing configuration and connectivity will be retained as a part of the proposal. A condition of consent shall also be imposed to ensure that the operation of the accommodation is used solely in conjunction with the place of public worship.</p>
<p>Clarification on whether the non-compliant ancillary use meets the objectives of the R2 zone.</p>	<p>The proposal meets the objectives of the zone noting that the development 'enables other land uses that provide facilities or services to meet the day to day needs of residents in a manner that protects the amenity of residents and continues to respond to the desirable elements of the existing streetscape by providing a design that responds to the unique topographical site context and generally aligns with the building envelopes of neighboring properties in terms of building height and setbacks of the institutional buildings within the religious campus and dwellings along Inglethorpe Avenue.</p>
<p>Excessive FSR sets a poor precedent and is a substantial departure from the required 0.5:1 FSR control for the ancillary use. Clause 4.6 variation is unjustified and should not be supported by the consent authority.</p>	<p>The development is for a building that is ancillary to the existing place of public worship and is not directly comparable to dwelling houses along Inglethorpe Avenue that have alternate operational / design requirements and are located at the topographical low point of the street with existing ground levels reduced via historic excavation in contrast to the subject site.</p> <p>The proposal seeks to utilise the elevated existing ground levels to provide for internal DDA access and off-street parking within an 8.25m natural slope that is not available to the other properties in Inglethorpe Avenue and is more comparable to the existing developments at the rear on the high side Eastern Avenue as shown in the above Figure 4 and institutional buildings within the Sacred Heart campus. The current topography and elevated nature of the site results in the additional level being accommodated within the height limit and predominantly within the DCP building envelope requirements with only a minor partial breach of the side setback to accommodate the building parapet at the junction with the south-western crossfall. Refer to Clause 4.6 section below for detailed assessment.</p>

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Issue	Comment
<p>Excessive Bulk and Scale and building footprint generating unacceptable visual impacts. Claimed the development will exceed the height of neighbouring development and generate further visual impacts.</p>	<p>A majority of the basement and ground level are recessed within the existing 8.25m site slope with an additional two levels provided above the existing natural ground level within a compliant 9.5m building height and predominantly compliant setback envelope, except for a minor partial breach of the parapet at the front corner of the site.</p> <p>Over the course of the assessment, the development height was lowered to better align with the ridge height of 1 Inglethorpe (490mm difference to parapet) and has also implemented an increased 9m level 2 front setback to reference the gable of this neighbouring roof form. Accordingly, it is not considered that the development will significantly protrude above neighbouring dwellings in a manner that results in unacceptable visual impacts. As a secondary measure the design has also included dense landscape and canopy tree planting to each of the site curtilages that offer screening of the built form and assist in maintaining visual amenity from public and private vantage points.</p>
<p>Excessive Building height.</p>	<p>The proposal complies with the 9.5m maximum building. Refer to LEP assessment below.</p>
<p>Non-compliant site coverage</p>	<p>Refer to key issues assessment below. Condition recommended to reduce the proposed site coverage via the deletion of the terrace over part of the entrance driveway and is noted that the non-compliance relates in part to providing a supported basement parking allocation within the front setback and DDA access for building occupants. The development portion above existing ground level is well below the site coverage maximum.</p>
<p>Non-compliant deep soil</p>	<p>Refer to key issues section below. Additional deep soil provided at the rear of the building via a condition that increases the provision to 34%. When accounting for additional planting provided on structure and within raised planters the development will exceed the deep soil provision requirement of 45% and is supported on merit, noting the landscape design has provided for more than double the required number of canopy tree emplacements.</p>
<p>Non-compliant southern side setbacks.</p>	<p>Refer to key issues section below. Limited to minor partial breach in south-western corner of the roof parapet. Design is predominantly compliant, and the minor area of the breach does not result in appreciable environmental impacts in terms of perceptible visual bulk or shadow impacts.</p>

Issue	Comment
<p>Limited consideration of the existing residential character along Inglethorpe Avenue and proposal with a four storey presentation is inconsistent with the existing streetscape character.</p>	<p>As outlined in the above comments, the site is isolated from the existing dwellings on Inglethorpe Avenue via a public pedestrian link and has a unique elevated context that sits higher than the lower excavated ground levels of the other properties on Inglethorpe Avenue. As a result, the property can accommodate an additional level of basement parking within a 8.25m slope that is not afforded to neighbouring properties and results in the part three to four storey presentation. The design has responded to the site specific topography, complies with the height limit and generally aligns with the height and setbacks of development along the eastern side of Inglethorpe Avenue noting that the development transitions from the institutional buildings within the northern sacred heart campus to the dwellings to the south.</p>
<p>Basement garage front setback and terrace area inconsistent with development pattern of neighbouring properties.</p>	<p>Agreed, an additional front setback recommended to enable a transition from the nil to an approximately 2.6m basement setback by removing the terrace over part of driveway and pedestrian access gate. This will also enable the removal of a 3.1m retaining wall adjacent to the public stairs as per Council's Earthworks controls and further reduce the non-compliant site coverage as noted above.</p>
<p>Privacy impacts resulting from front terrace, elevated balconies, southern side elevation and rear eastern elevation.</p>	<p>The front terrace is provided with a landscaped edge and would predominantly offer southern vantage points across the street frontage as the built form would block the oblique angle towards neighbouring yards. In addition, there is considerable separation between these terrace areas and public street trees that assist in screening viewing angles to the opposite side of the Inglethorpe Avenue.</p> <p>In addition, the southern side and rear windows and balconies have been conditioned with privacy measures to prevent overlooking to neighbouring properties.</p>
<p>Increased overshadowing impacts to northern elevation windows and rear yards.</p>	<p>The overshadowing impacts result from a built form that complies with the height limit and predominantly complies with the building envelope envisaged under DCP setbacks.</p>
<p>Lack of an overall site masterplan and heritage impacts to the place of public worship.</p>	<p>The site was selected to minimise heritage impacts to the curtilage of protected buildings within the wider campus and is supported by a Heritage Impact Statement reviewed by Council's Heritage Planner.</p>
<p>Loss of ten trees to accommodate the development, including trees within the public domain and the established tree canopy within the rear of the site. New planting is insufficient to replace tree canopy.</p>	<p>The plans indicate 10 replacement tree emplacements as a part of the landscape design, which exceeds the minimum DCP requirements of 4 canopy trees and will replace the trees removed under the application.</p>

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Issue	Comment
Concerns for proposed public stairway generating traffic and secondary parking impacts due to parishioners accessing the church from Inglethorpe Avenue.	Noted. Amended plans have deleted the previously proposed public access that was identified as a potential future connection due to conflict with public tree root zones at the end of Inglethorpe Avenue. The only remaining access link to the church and monastery is a future private central link to enable access for clergy residing within the ancillary rectory building that enables operational connectivity with the wider religious campus.
Traffic generation impacts noting the traffic flow identified by the accompanying report and the classification of the site as similar to a boarding house.	Reviewed by Council's Development Engineer and no concerns were raised. No reference to boarding house appears to be in the traffic assessment report.
Secondary parking impacts caused by visitors to the rectory and loss of on-street parking not assessed by the submitted traffic impact assessment.	Applicable parking rate for rectory reviewed and supported by Council's Development Engineer.
Allowing 5 car spaces would set a poor precedent for dwelling houses that are only afforded 2 spaces in the DCP. Parking rate should follow the requirements of a dwelling house and additional spaces should be counted as further FSR.	<p>The subject application is not seeking consent for a dwelling house and is proposing a rectory / presbytery (residential accommodation) that is ancillary to the primary place of worship use. In the absence of a specific parking for the ancillary use, the dwelling house rate has been applied to provide guide that a larger six bedroom accommodation should be provided with 4 standard car spaces to accommodate the additional demand generated by the 4 permanent occupants of the development with one additional disabled space provided to support the DDA accessible room. The five spaces are considered acceptable on merit and supported by Council's Development Engineer in the context of the proposal. Noting a specific parking rate is not provided for a rectory and the dwelling house rate is only implemented as a guideline, this would not constitute additional GFA under the Standard Instrument definition.</p> <p>The specific context and use of the site is not considered to generate an unacceptable precedent for unrelated development and land uses within the locality.</p>
Structural impacts caused by substantial basement excavation. Confirmation that dilapidation report will be requested from applicant via a condition.	Standard dilapidation report condition included in the subject development consent, along with conditions to address structural certification of the development and the support of adjoining land during all phases of redevelopment.
Development would set a poor precedent in the R2 low density zone and is not in the public interest.	As noted above, the site-specific context, topography, unique ancillary use and isolated nature of the development are not considered contrary to the public interest or to set a precedent for sites that are not directly relatable.

Issue	Comment
Streetlamp shown on Council land not supported.	No works for lighting are shown on the submitted plans within Council's public domain, and these works would require separate civil works approval if proposed by the applicant. Civil works has been addressed via recommended condition requiring the detailed submission of these works for the assessment of Council's Engineering Assets unit prior to construction certificate release.
Garage should not be permitted on Council land. Parking should be accommodated within existing facilities in the monastery site.	The proposed garage area is within private land. The proposed driveway crossover is a standard requirement that is subject to separate Civil works approvals by Council's Engineering Assets unit. It is noted that basement intends to facilitate accessible parking for the future building occupants and that the use of parking within the wider monastery site would compromise accessibility to the subject building.
Development should be relocated within monastery campus not adjacent to residential properties.	The recommendations of the Heritage Impact Statement and Council's Heritage Officer were to mitigate the visibility of new construction works within the Heritage Conservation area and the curtilage of the heritage listed place of public worship chapel and monastery. The subject site is optimal in terms of minimising visual impacts upon the main historic campus from a heritage perspective as noted by Council's Heritage Officer in Appendix 1 .

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5.1. Renotification

As outlined above, the application was amended to reduce the FSR, decrease the overall height, reconfigure the basement footprint and increase the front setback to Inglethorpe Ave. Each of the subject changes resulted in a reduction to the overall building envelope when compared to the original submission and consequently results in a lesser environmental impact. Accordingly, the revised plan set was not required to be renotified in this instance as per Council's Community engagement strategy.

6. Relevant Environment Planning Instruments

6.1. SEPP (Planning Systems) 2021

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5 of Schedule 6 of the Planning Systems SEPP as the proposal is for Private infrastructure and community facilities over \$5 million (place of public worship). As part of the Planning System Reforms Act 2025, the determination of regionally significant development was transferred to Local Planning Panels. Accordingly, the Randwick Local Planning Panel (RLPP) is in the consent authority as per Section 275 of the EPA Regulations 2021 and s9.1 Ministerial Direction, dated 3 December 2025.

6.2. SEPP (Sustainable Buildings) 2022

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

6.3. SEPP (Biodiversity and Conservation) 2021

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

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

The proposed development involves the removal of vegetation. Council’s Landscape Development Officer reviewed the proposal and confirmed support for the proposed removal and landscaping treatments, subject to the imposition of conditions (refer to Referrals section in **Appendix 1** below). As such, the proposal satisfies the relevant objectives and provisions under Chapter 2.

6.4. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

The provisions of SEPP (Resilience and Hazards) 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 formed a part of the Ministry of the Sacred Heart Monastery campus’ landscape curtilage and as such, is unlikely to contain any contamination. The nature and location of the proposed development involving the construction of a new rectory building ancillary to a place of public worship are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.5. Randwick Local Environmental Plan 2012 (LEP)

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

The site is zoned R2 Low Density Residential under Randwick Local Environmental Plan 2012, and the proposal is permissible with consent as it relates to the construction of a new dwelling ancillary to the place of public worship within the wider monastery and chapel campus further to the north. The connectivity of the new ancillary residential building has been demonstrated with a future internal access link at the centre of the northern side boundary capable of providing direct pedestrian connectivity with the monastery and chapel that all share the same property address of 1 Roma Avenue, Kensington and are permissible forms of development within the R2 zone.

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will enable other land uses that provide facilities or services to meet the day to day needs of residents in a manner that protects the amenity of residents and continues to respond to the desirable elements of the existing streetscape by providing a design that responds to the unique topographical site context and generally aligns with the building envelopes of neighboring properties in terms of building height and setbacks, subject to condition refinements at the basement level.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.5:1 (350.1m ²)	0.75:1 (524m ²)	No See Clause 4.6 Assesment.
Cl 4.3: Building height (max)	9.5m	8.47m	Yes

		RL47.91 to South-western low point RL39.44	
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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*

The subject site is located adjacent to the (C3) Sacred Heart Heritage Conservation Area (HCA) and is within proximity to the Sacred Heart Chapel and Monastery within the wider religious campus. The proposal was referred to Council’s Heritage Planner, who did not object to the proposal subject to conditions. Refer to the referral comments in **Appendix 1**.

6.5.3. *Clause 6.2 Earthworks*

Clause 6.2 of the Randwick Local Environmental Plan 2012 applies to development involving earthworks. The proposed development entails extensive basement and ground level excavation with nil setbacks to boundaries and significant excavation depths of up to approximately 9 metres as a result of the significant slope exhibited across the site. Council is satisfied that the proposed earthworks would not have a detrimental impact on adjoining properties or land stability, having regard to the significant separation distance of neighbouring structures, subject to standard consent conditions to manage these works. Accordingly, the proposal is considered to satisfactorily address the requirements of Clause 6.2 of RLEP 2012.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max) Site area: 701.9m ²	0.5:1 (350.1m ²) Rectory / Presbytery Guideline: 0.6:1 (421.14m ²) Dwelling	0.75:1 (524m ²)	173.9m ²	50%

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

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

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

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

As part of the clause 4.6 reform the requirement to obtain the Planning Secretary’s concurrence for a variation to a development standard was removed from the provisions of clause 4.6, and therefore

the concurrence of the Planning Secretary is no longer required. Furthermore, clause 4.6 of the Standard Instrument no longer requires the consent authority to be satisfied that the proposed development shall be in the public interest and consistent with the zone objectives as consideration of these matters are required under sections 4.15(1)(a) and (e) of the *Environmental Planning and Assessment Act 1979*, and clause 2.3 of RLEP 2012 accordingly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Item	Description
(a) To ensure that size and scale of development is compatible with the desired future character of the locality.	The surrounding locality is characterised by low-density residential development and the MSC including a place of worship and educational establishments. The proposed built form has been carefully designed to maintain consistency with the prevailing neighbourhood character and visual streetscape. The siting of the proposal provides generous setbacks and separation to site boundaries and adjoining properties. The scale, articulation and materiality of the development respond appropriately to the context, ensuring that it integrates harmoniously with adjacent dwellings and contributes positively to the established urban form.

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

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

(b) To ensure that buildings are well articulated and respond to environmental and energy needs,	Through the use of varied materials and integrated landscaping, the design enhances visual interest and reduces perceived bulk, ensuring the building is appropriately set back and scaled within its streetscape context. Shaded areas and additional planting contribute to reduced heat gain and improved thermal comfort. A BASIX Certificate and assessment report has been completed for the development, confirming compliance with energy efficiency, water conservation, and thermal performance requirements.
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(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,

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

(c) To ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,	The subject site and building are currently owned by the MSC. The proposed development has been carefully designed to respond to the scale, character, and heritage context of the surrounding area. In particular, the design seeks to integrate sensitively with the heritage-listed items located on the adjacent MSC land, ensuring that the built form complements and respects the cultural significance of the broader
	precinct. Through thoughtful siting, material selection, and architectural articulation, the proposal aims to achieve a cohesive relationship with the existing heritage items and neighbourhood character while supporting the ongoing religious and community functions of the MSC.

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

The applicant’s written justification demonstrates that this objective is satisfied by noting:

(d) To ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.	The site is located on sloping land and integrates well with the established character of the surrounding neighbourhood. The proposed development has been designed and sat to minimise visual bulk and overshadowing, while ensuring compatibility with adjacent properties. Importantly, the proposal does not result in any unreasonable overshadowing, loss of privacy, or obstruction of views, thereby maintaining the amenity of neighbouring land.
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Assessing officer’s comment: In conclusion, the applicant’s written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case.

The development provides a suitable streetscape transition from the wider place of public worship campus to the residential area and dwellings along Inglethorpe Avenue with the additional floor area accommodated within the significant site slope. The above ground built form generally aligns with the overall height, site coverage and setbacks of the immediate locality, subject to the minor refinement of the basement entrance front setback via condition.

The development is also afforded with high levels of articulation, dense screen planting within the public domain and the proposed onsite landscape treatment that assist in softening the perceived bulk of the development and responding to the environmental and energy needs of the development. The proposal has provided all habitable areas of the development with operable glazing to enable natural light and ventilation. The design has also limited glazing to the western façade and is accompanied by a supporting BASIX certificate that satisfies the relevant energy requirements.

The siting of the design, material selection and overall height have been considered in the accompanying Heritage Impact Statement and found to provide a supportable outcome by Council’s Heritage Planner, noting that the development has been located outside of the C3 Heritage Conservation and does not compromise the landscape curtilage of the heritage items further to the north and with a proposed building height that is recessed below the wider religious campus.

As noted previously, the building envelope at Levels 1 and 2 that are above natural ground comply with the FSR, site coverage, building height and correspond with the required setbacks to ensure that the development does not protrude above neighbouring development or result in excessive visual bulk. The part 3-4 storey appearance results from the significant site slope and the provision of off-street parking and DDA access within the development. The site is afforded with an additional 7-8m of building separation from neighbouring residential development via the public walkway, which assists in providing a compliant overshadowing

outcome and privacy interface (subject to privacy treatment conditions) further to the south. No view corridors are identified be impacted as a result of the proposal.

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

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

Streetscape and Urban Integration

The site is located at the end of street which abruptly terminates at the boundary of the MSC, which lacks a formal turning circle and therefore experiences minimal vehicular and pedestrian traffic. This positioning significantly reduces the site’s visibility from the public domain.

The front setback is between 7.5m-8.2m off the boundary, which is significantly greater than the prevailing street setback (typically approx. 5.5m). An additional 2.1m upper-level front setback is also established to better align with the established streetscape character and to ensure the taller built form presents at a scale and setback consistent with the taller volumes of the neighbouring properties. The rear setback is between 9.6m-10.3m off the rear boundary, measured to the projecting eaves line, whilst the façade is setback a further 1.5m, equating to 11.1m, equivalent to 26% of the 42m allotment depth, which is more than the DCP requirement,

The scale, built form and spatial pattern of the adjoining neighbourhood is varied, mediating between the dwelling houses along Inglethorpe Avenue and the institutional buildings of the broader Monastery site. This site sits within that transition, creating a unique planning context and built form justification, particularly in regard to the rear setback, with the laneway providing additional separation and further reducing potential impacts on the southern neighbour.

Overall, the proposed built form has been carefully designed to respect the existing rhythm and scale of the streetscape, the proposal does not dominate or disrupt the established character and its discreet location and limited exposure contribute to a low-visual impact, reinforcing its compatibility with the surrounding urban fabric.

Visual Screening and Landscape Character

Existing mature vegetation along the street frontage and within the adjoining MSC land provides a natural screen that softens the visual presence of the proposed development. This canopy, combined with additional landscaping proposed as part of the development, enhances the integration of the site into the landscape and reduces the perceived bulk of the proposed building. The retention and reinforcement of green elements support the variation by demonstrating a sensitive response to the site’s environmental context and visual character.

Separation from Residential Dwellings

The site benefits from a physical and functional buffer in the form of a public walkway that separates it from the nearest residential dwelling to the south. When combined with the walkway, the development maintains a 7.1m separation to the neighbouring property. Additionally, the rear volume to the east sits within the DCP setback envelope, hence the proposed siting is appropriate and would achieve minimal solar and privacy impacts to the neighbouring property. Additionally, screening devices within the façade of the upper-level is provided to further minimise potential overlooking onto the neighbouring properties. These ensure that the proposed increase in FSR does not result in adverse impacts on residential amenity, including privacy, noise and overshadowing. The walkway acts as a transitional space, maintaining a clear distinction between the Place of Public Worship and adjacent residential uses and thereby mitigating any potential land use conflicts.

Land Use Consideration

Although the site is zoned R2 Low Density Residential, the proposed development is directly associated with the religious operations of the adjoining MSC facility. The inclusion of ancillary residential accommodation for clergy is integral to the ongoing function and management of the Place of Public Worship. This unique land use context warrants a more flexible interpretation of the FSR control, recognising the operational needs of the religious institution and the ancillary nature of the proposed use.

Environmental Impacts

The proposal has been designed with careful consideration of environmental and amenity impacts. Building siting, orientation, and massing have been optimised to minimise overshadowing, overlooking, and visual intrusion. Adequate boundary setbacks and screening devices within the the façade of the upper-level is provided to minimise potential overlooking to the neighbouring properties. Landscaping treatments further mitigate potential impacts and enhance the site's compatibility with the surrounding built form. The architectural response is modest and respectful of neighbouring properties, contributing positively to the streetscape while maintaining the amenity of adjacent residential areas.

Assessing officer's comment: Noting the significant slope exhibited from the north to the south-western corner of the site accommodating the additional floor space areas and that levels 1 and 2 above the existing natural ground level provide a generally compliant built form outcome in terms of the LEP height and DCP built form requirements, subject to minor condition refinements that increase overall deep soil and reduce the associated site coverage of the basement parking structure. The development will also generally align to the pattern of development setbacks within the streetscape and is recessed to remain subordinate to 1 Inglethorpe Ave. The amended design in terms of siting and overall height results in an acceptable visual bulk presentation to the wider streetscape. The proposed built form does not generate appreciable or unacceptable amenity impacts in terms of privacy, overshadowing or view loss, subject to recommended consent conditions. The proposal is considered to achieve an acceptable transition between the wider religious institutional campus to the north and residential context of existing dwellings accommodated to the south.

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

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

The DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a

development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality, noting the unique context of the subject site's elevated natural topography in comparison to other properties along Inglethorpe Avenue and that the site is separated from neighbouring properties by a public access path. The proposed building envelope is generally consistent with the overall height and building setbacks of the immediate locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

No. of storey & Side Setbacks

Part C1 of RDCP prescribes a maximum two storey limit and side setback controls which scale according to building height. Those side setback controls intensify above the 7 metre mark, essentially requiring a roof pitch to create a two storey dwelling.

Difficulty in compliance with these controls occurs for sites such as the subject proposal, where steep inclines occur and the ground level is not flat. The setback envelope **Figure 10** below provides a visualisation of required side setbacks and how they change dependent on existing ground level.

As illustrated in the below **Figure 10**, the built form of the rectory remains generally consistent with the control requirement across the subject site, being close to compliant except for a minor portion of the parapet in the south-western corner of the building envelope. Notwithstanding, the proposal follows the sloping topography of the site and is limited to only two storeys above natural ground, which is consistent with the intention of the control as shown in the below figure to provide a predominantly compliant building envelope.

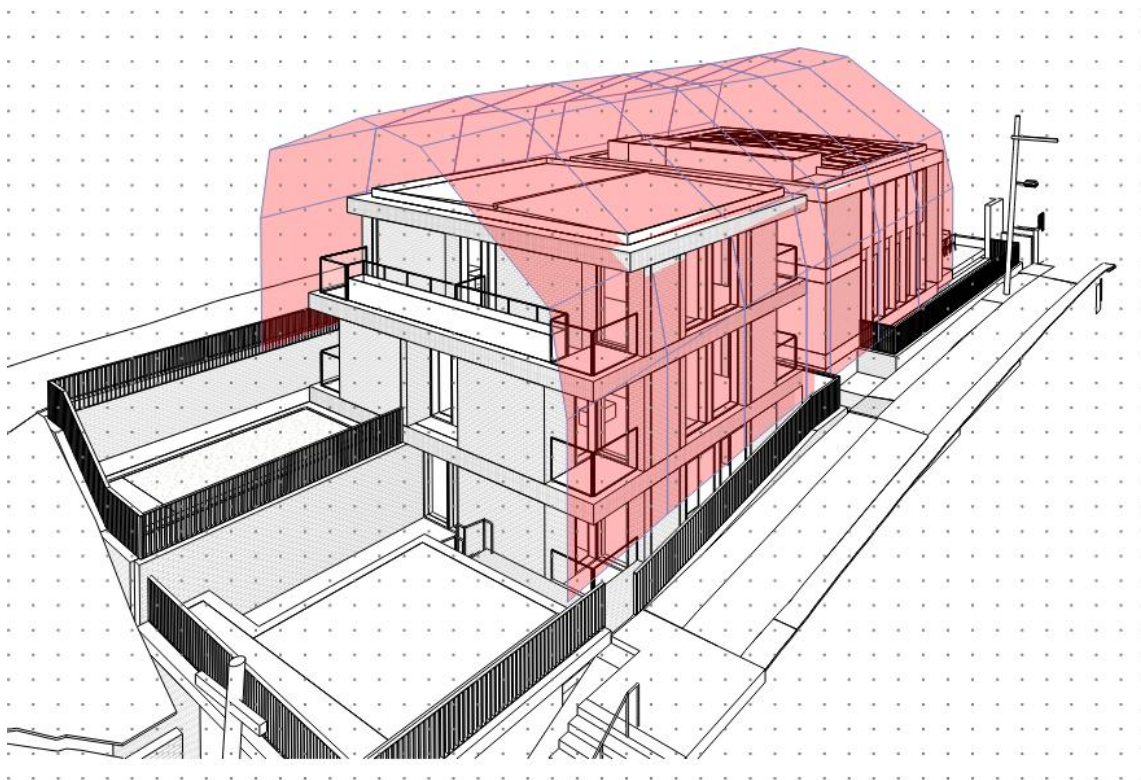


Figure 10 – Side setback envelope diagram

Further, an assessment is provided of the side setbacks against the relevant setback objectives under C1.

- *To maintain or establish a consistent rhythm of street setbacks and front gardens that contributes to the character of the neighbourhood*

The site transitions between a place of public worship to the north and one to three storey dwellings to the south with larger buildings at the high side of the street closer to the proposal site. The site is separated from neighbouring dwellings by a public access link that affords 7 to 8m of building separation with the nearest dwelling house and as such the proposed side setback is not considered contrary to character of surrounding development, noting the unique context and additional separation provided to the subject site as an outlier within Inglethorpe Avenue. The proposed form is not considered to result in any unacceptable disruptions to the character of the locality and will provide for substantial replacement landscaping within the front setback as part deep soil consistent with the 25% DCP nexus requirement.

- *To ensure the form and massing of development complements and enhances the streetscape character and maintains a two storey street frontage*

The form and massing of the streetscape and its wider surrounds are not that of two storey street frontages. The form and massing therefore integrate into this existing character that ranges up to 3 storeys and transitions to larger buildings on the elevated portion of Eastern Avenue and the northern Sacred Heart campus buildings. The overall building height has been accommodated within the significant site slope and will generally align with the height of neighbouring properties, as shown in the streetscape analysis below (Refer to **Figure 12**).

- *To ensure adequate separation between neighbouring buildings for visual and acoustic privacy and solar access*

As per the assessment with this report, the Application will provide for compliant privacy and solar access, subject to recommended consent conditions.

- *To reserve adequate areas for the retention or creation of private open space and deep soil planting*

The Application provides in excess of the minimum private open space and above the compliant provision of canopy tree planting. In addition, the scheme has satisfied the intent of the deep soil provision on merit noting the substantial provision of landscape planting and deep soil throughout each of the site curtilages and a compliant front setback deep soil zone. Refer to detailed assessment below.

- *To enable a reasonable level of view sharing between a development and the neighbouring dwellings and the public domain.*

No impacts identified to sensitive or protected view corridors.

As per the above, it is considered that the proposed side setbacks achieve the relevant setback objectives. Notwithstanding, the Application must also be assessed under the controls that review the acceptability of the proposed 3-4 storey street presentation.

Council's building height controls under C1 allow for variation to two storey presentation where the following is to be considered:

- *Site topography*
- *Site orientation*
- *Allotment configuration*
- *Flooding requirements*
- *Allotment dimensions*
- *Potential impacts on the visual amenity, solar access, privacy and views of the adjoining properties.*

The land slopes from its rear to Inglethorpe Avenue approximately 8.25 metres, and is considered to have a significant slope, as shown in **Figure 11**. The site and lot orientation are regular and consistent with the surrounding character. Flooding has not been raised as an issue by Council's Development Engineer and the proposal is not elevated above natural ground level to respond to flood planning requirements. Of further consideration, is that many of the properties on the high side

of Inglethorpe Ave and Eastern Ave, present as more than two storeys to the street in response to the elevated site topography and transition from the Sacred Heart campus.

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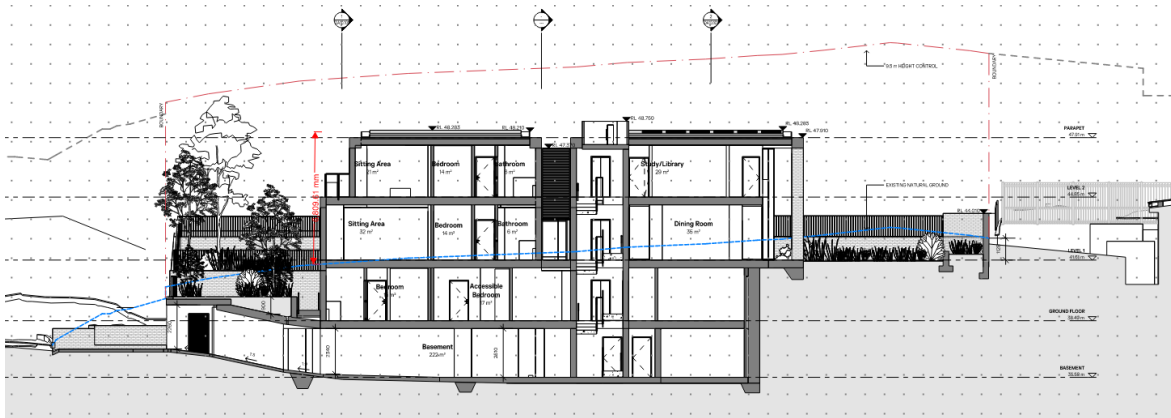


Figure 11: Long Section illustrating extent of level change and excavation with ground level recessed and concealed from the street frontage.

The development as a whole is considered to suitably mitigate much of the major impacts that are associated with the proposed FSR variation and Part 3-4 storey presentation of the development. Visual amenity is achieved through suitable planting, appropriate articulation and setbacks, as well as quality material selection. Solar access for surrounding development complies with relevant DCP requirements. View impacts are not considered to result to neighbouring development. Lastly privacy is considered appropriate and addressed as per the Council DCP assessment provisions, subject to recommended conditions.

A majority of the basement and ground level are recessed within the existing 8.25m site slope with an additional two levels provided above the existing natural ground level within a compliant 8.5m building height and predominantly compliant setback envelope, except for a minor partial breach of the parapet at the front of the site.

Level 2 was reduced in height to align the development generally with the ridge height of 1 Inglethorpe (minor increase of 490mm) in the context of an average 1.5m level difference and the elevated crossfall within the subject site and has accommodated an increased front setback to recess the development behind the gable of the neighbouring dwelling.

The site is isolated from the existing dwellings on Inglethorpe Avenue via a public pedestrian link and has a unique elevated context that sits higher than the lower excavated ground levels of the other properties on Inglethorpe Avenue. As a result, the property can accommodate an additional level of basement parking within an 8.25m slope that is not afforded to neighbouring properties and results in the part three to four storey presentation. The design has responded to the site specific topography, complies with the height limit and generally aligns with the height and setbacks of development along the eastern side of Inglethorpe Avenue noting that the development transitions from the institutional buildings within the northern sacred heart campus to the dwellings to the south.

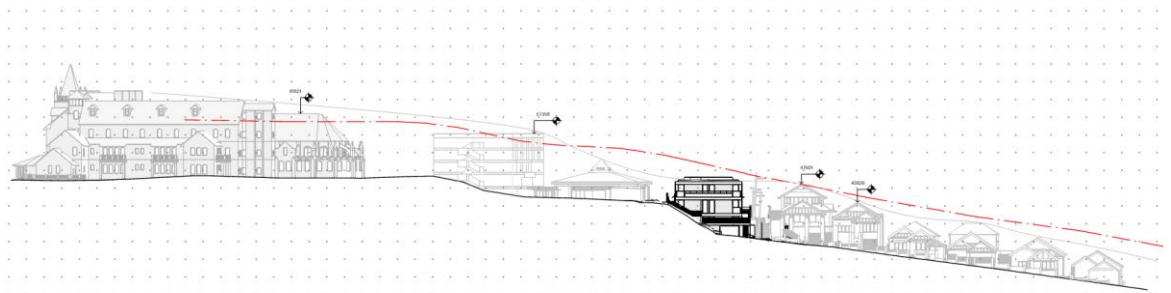


Figure 12: Streetscape elevation and comparison of height with neighbouring dwellings on Inglethorpe Ave.

Further, the Application is assessed against the relevant height objectives under 3.2 of C1 of RDGP.

- *To limit the bulk, scale and visual impact of buildings as viewed from the street and from neighbouring dwellings*

The bulk and scale of the development is substantially in line with adjoining dwellings and the surrounding streetscape and provides a suitable transition from the northern place of public worship campus. Planting and articulated form assist the reduce the visual impact and recognise desirable streetscape elements.

- *To ensure low density residential development maintains a two-storey height and street frontage*

The surrounding area does not exhibit a consistent two storey street height. The Application seeks development which is consistent with the streetscape on the elevated portion of Inglethorpe and Eastern Avenue and generally corresponds with the overall height of the closest residential dwelling house (1 Inglethorpe Ave).

- *To position any habitable space above the first floor level within the roof of the dwelling*

As per the above side setback assessment, it was determined that the proposed side setbacks are acceptable on the basis of the sites sloping topography, streetscape consistency of other 3 storey buildings, and general lack of impact to the surrounds noting the extensive separation to adjacent dwellings provided by the public footpath along the southern boundary.

- *To ensure development height does not cause unreasonable impacts upon the neighbouring dwellings in terms of overshadowing, view loss, privacy and visual amenity*

As per the above, these matters are considered acceptable and compliant with DCP controls.

- *To ensure the form and massing of development is respectful of site topography.*

The form and massing respond directly to the topography.

Accordingly, it can be concluded that the proposed street presentation and side setbacks for the Application are acceptable as they are consistent with Council's objectives and the streetscape and lack any unacceptable amenity impacts to the locality.

Deep Soil

Section 2.5 of the Part C1 regarding a 45% deep soil requirement on an allotment of 600sqm is not directly applicable to the subject ancillary place of public worship building. Notwithstanding, the control is applied to ensure a suitable transition is provided to dwellings in the R2 zone and adequate landscaping is provided to ensure streetscape compatibility of the overall built form as required by the zone objectives.

The current proposal offers a deep soil provision of 217m² (30.9%). This is proposed to be increased by 20m² to 237m² (34%) through the conversion of hardstand areas along the rear elevation to provide for additional soft landscaping and permeable paving. A compliant nexus of deep soil is accommodated within the front setback and supplemented with planting on structure.

Furthermore, when accounting for additional planting provided on structure and within raised planters the development will exceed the deep soil provision requirement of 45%, noting that the landscape design has provided for more than double the required number of canopy trees in the plan illustrated below.

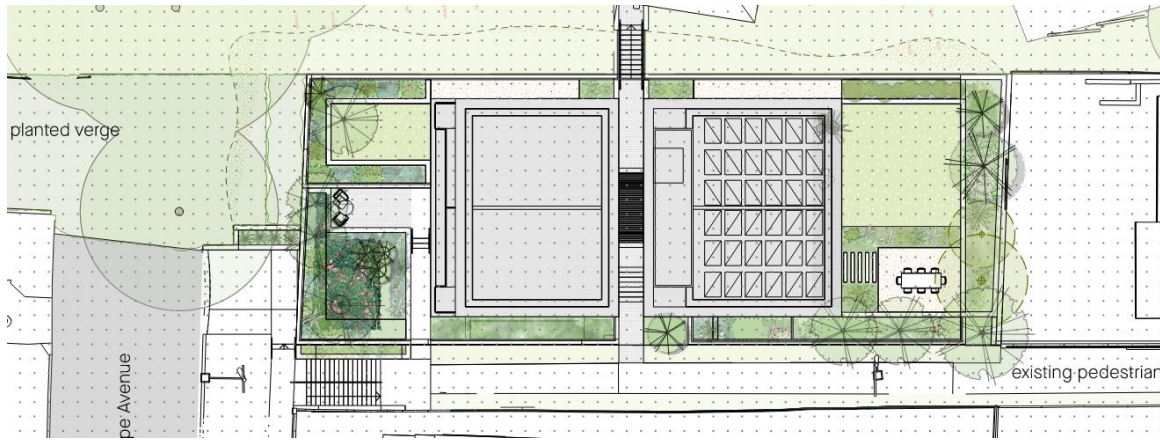


Figure 13: Landscaped plan showing replacement tree planting and extensive planting zones across site.

It is considered that the above landscaping planting provision will soften the built form in the context of the streetscape and improve the visual amenity of the development consistent with the objectives of the control.

Site Coverage, Earthworks and Front Setback

The site coverage control requires a maximum built form of 45% on a site area of more than 600m². Similar to the above deep soil assessment, it is noted the proposal is not for a dwelling house, however, this provision is being targeted to ensure general consistency with development within the immediate streetscape and manage the associated visual bulk of the development in accordance with the relevant R2 zone objectives.

The application includes a proposed site coverage of 450m² (64%), which exceeds the maximum control and predominantly relates to the basement area accomodating suitable off-street parking in accordance with the requirements of Council’s Development Engineer. When not accounting for the basement entrance within the front setback that provides internal DDA access from street level for future occupants of the rectory and to the accessible accomodation room. The site coverage from the ground level up to Level 2 is 270m², which is considerably below the maximum DCP requirement at approximately 38%.

Notwithstanding, the aforementioned consideration of the above ground building envelope. The site coverage is proposed to be reduced via condition by approximately 15m² to 435m² (61%) through the removal of the cantilevered terrace area over the entrance driveway to also address concerns regarding the alignment of the front setback and the streetscape presentation of a 3.1m high retaining wall adjacent to the public pedestrian access stair that is also contrary to Earthworks design parameters of the Randwick DCP for retaining structures. The area proposed for deletion is shown in the below diagram.

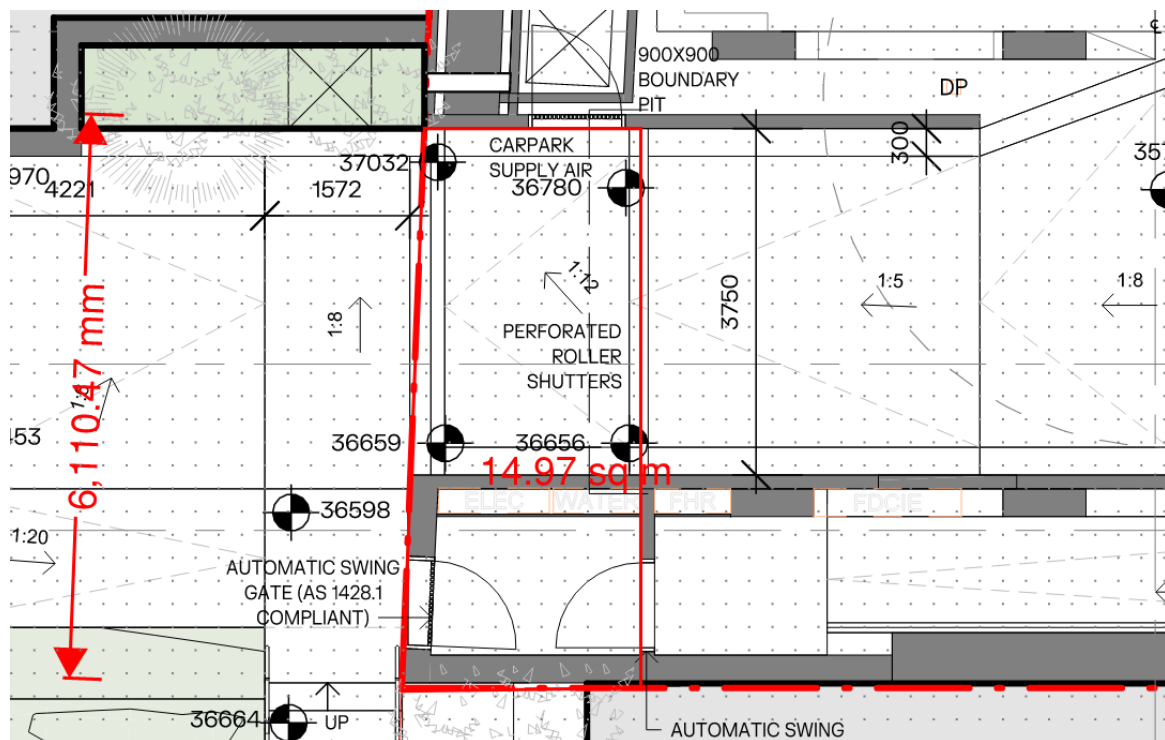


Figure 14: Site Coverage reduction zone (shown in red outline).

Subject to the abovementioned change to address the relevant DCP controls, the proposed site coverage is considered to be generally consistent with the objectives of the site coverage control. In terms of requiring proposals to reserve adequate unbuilt upon areas for deep soil, private open space, permeable surfaces and not conflict with the preservation of high amenity levels noting the considerable proportion of overall landscaping accommodated on the site.

10. Conclusion

That the application for the erection of residential accommodation comprising a part-2, part-3 storey residential accommodation that is ancillary to a place of public worship (Sacred Heart Monastery), including tree removal, installation of retaining walls, associated ancillary, temporary shorting and landscaping works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The applicant's written request to vary the development standard relating to Floor Space Ratio (FSR) in Clause 4.4 of Randwick Local Environmental Plan 2012 has demonstrated that Compliance with the relevant development standard is unnecessary and unreasonable in the circumstances of the case and there are sufficient environmental planning grounds to justify the contravention of the relevant development standard.
- The proposal is consistent with the specific objectives of the R2 zone in that will enable other land uses that provide facilities or services to meet the day to day needs of residents in a manner that protects the amenity of residents and continues to respond to the desirable elements of the existing streetscape.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality and provides a sensitive treatment to the northern heritage precinct, subject to recommended condition revisions addressing the onsite deep soil, site coverage and visual privacy managing the transition from the place of public worship campus to the dwellings on Inglethorpe Avenue.

- The development enhances the visual quality of the public domain, particularly along the pedestrian access link and provided by the substantial landscape treatment throughout the site curtilage.

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

The subject site adjoins the Sacred Heart Heritage Conservation Area (C3). The HCA contains a heritage item (two separate buildings) listed under Schedule 5 of the RLEP 2012, known as the 'Sacred Heart Monastery and Chapel' at 1 Roma Avenue, Kensington (Item no. 140).

The Sacred Heart HCA and subject site are contained in the same lot known as, Lot 1 in DP123316.

The HCA contains several trees listed on the Significant Tree Register.

There are heritage items nearby, including 'Our Lady of the Rosary Church' at 1 Kensington Road (I133), 'Our Lady of the Sacred Heart Convent' at 2 Kensington Road (I134) and 'Californian bungalow' at 10 Cottenham Avenue (I490).

Background

PL/25/2025 – Pre-DA recommendations:

Recommendations (for 1A Waltham Street, Coogee and 1 Roma Avenue, Kensington)

Any future development application must include:

- A Statement of Heritage Impact (SoHI) prepared in accordance with the Guidelines for preparing a statement of heritage impact (Department of Planning and Environment).
- A Conservation Management Plan, or similar heritage management document, to manage the impacts of the proposed masterplan across the sites and maintenance of Maidston.
- A Materials, Colour and Finishes Schedule.
- A View Analysis, showing views to and from the heritage item or HCA.
- A Streetscape Analysis.
- A Photomontage – showing the site with and without trees.

Site specific recommendations for 1 Roma Avenue, Kensington

Section 2.6 Materials, finishes and colour schemes

- The proposed colours should be sympathetic to the original materials and colours of the contributory building (RDCP 2023, Chapter B2, Section 2.6: (v)).
- A Materials, Colour and Finishes Schedule must be submitted with the development application.

DA Proposal

Erection of residential accommodation comprising a part-2, part-3 storey dwelling house that is ancillary to a place of public worship (Sacred Heart Monastery), including tree removal, installation of retaining walls, associated ancillary, temporary shorting and landscaping works (Heritage Item and Conservation Area, Variation to Floor Space Ratio).

First Submission

- A Heritage Impact Statement has not been provided to assess the impacts to the HCA and heritage items in the vicinity of the site.
- D05927507 - *Full Set - Architectural Plans 251107 (V2)_PAN-589639

Controls

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

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

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

Comments for RFI:

- A Statement of Heritage Impact (SoHI) prepared by a suitably qualified heritage professional and in accordance with the Guidelines for preparing a statement of heritage impact (*Department of Planning and Environment*).
- A Conservation Management Plan, or similar heritage management document, to manage the impacts of the proposed masterplan at 1A Waltham Street, Coogee and 1 Roma Avenue, Kensington.

Review of amended plans and documentation (received 30 April 2026)

Internal comments

- SOHI - A Heritage Impact Statement has been submitted to Council.
- Heritage Items - The proposed development is physically separated from the Sacred Heart Monastery and Chapel (Item no. 140) and therefore, will not have impacts on the physical fabric of those items. The location and lower topography of the subject site mean it is unlikely that the new development will have impacts on the setting of those items. Where views to the items and HCA are available from Roma Ave, much of the view is filtered by trees and landscaping. The development should not impact those views to the items.
- HCA – The new development will be visible from within some areas of the HCA, however the impact is expected to be limited as the subject site is significantly lower than the HCA - the topography slopes towards Roma Avenue. From within the HCA, one storey (Level 2 of the development) will be visible joined to a proposed connecting stair (at Level 1) between the development and the HCA. Views of the new building are not expected to impact the significance or experience of the site. There are views to the HCA from Roma Avenue. These are filtered by trees and landscaping. The new development is not expected to impact these views.
- The proposed materials, colours and finishes are neutral, incorporating elements of timber, limestone and brick. The materials, colours and finishes are sympathetic to the heritage context.
- Overall, the proposal is unlikely to impact the significance of the Sacred Heart HCA and the heritage items in the vicinity.

Recommendation

The proposal is supported from a heritage perspective.

1.2. Development Engineer

This report is based on the following plans and documentation:

- Amended Architectural Plans by Cortese Gilder, stamped by Council 30th April 2026.
- Statement of Environmental Effects by Mecone dated Nov 2025.
- Amended Site Survey by C & A Surveyors dated 18/02/25 and stamped by Council 30th April 2026
- Geotechnical Report by JK Geotechnics dated 23rd May 2025.
- Landscape Plans by Jane Irwin Landscape Architecture, dwg's L-DA-000 - 103

General Comments

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

Drainage Comments

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

The stormwater must be discharged (by gravity) either:

- i. Directly to the kerb and gutter in front of the subject site in Ingelthorpe Avenue street/road; or
- ii. Directly into Council's underground drainage system located in Inglethorpe Avenue via a new kerb inlet pit and section of 375mm pipe to join onto the existing kerb inlet pit in front of No.9 Inglethorpe Avenue; or
- iii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

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

Flooding Comments

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

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

Parking Provision Comments

There is no specific parking rate for this specific type of development in Council's DCP however it is noted the subject development displays characteristics of both a residential flat building with each room within the proposed development having access to a bathroom and private sitting room but also has cooking facilities and dining facilities shared with other bedrooms similar to a co-Living or group home.

The accommodation will be for the benefit for the provincial superior and other clergy of the Missionaries of the Sacred Heart who would be more likely to own a car than occupants of a boarding house for example. If assuming a worse case that every occupant owns a vehicle the development would require 6 spaces. If assessed as a boarding house the development would require only 1-2 spaces.

The proposed provision of 5 spaces (including 1 accessible space) would therefore suggest an appropriate balance leaning towards a majority of occupants having access to a motor-vehicle, which is considered appropriate

The applicants traffic report by TTPA used a different methodology and instead utilised the required parking provision for a 3 bedroom dwelling house being 2 spaces and effectively doubling it to accommodate the 6 bedrooms, arriving at a required parking provision of 4 spaces. As the development provide 4 spaces including an accessible space, they also argue the parking provision is appropriate.

The logic is somewhat flawed using this methodology however the total parking provision of 5 spaces is considered to be satisfactory and appropriate for this type of development. No objections are therefore raised from a parking provision perspective.

Parking Layout Comments

The parking layout appears to generally comply with the minimum requirements of Australian Standard 2890.1 however this has also been conditioned in this report.

Undergrounding of site feed power lines

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

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

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

Geotechnical Comments

The submitted geotechnical report states that excavation will be predominately in fine to medium grained sand and groundwater is not expected within the depth of the excavation however no long term monitor

The basement is therefore not expected to dam or impact the movement of groundwater through the site. Conditions relating to the management of groundwater are generally not required.

Waste Management Comments

The Waste Management Plan submitted with the application will be required to be amended to meet Councils requirements. A suitable condition has been included in this report.

Comments on the number of Waste Bins

Appendix 3 in Part B6 of Council's DCP or the Waste Management guidelines do not specify a waste bin requirement rate for this type of development. However if using the rate for a boarding house as a base it is estimated that that 2 x 240L bin for garbage and 2 x 240L bins for recycling will be required. .

There are also 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 and it is recommended a minimum of 1 x 240L bins also be provided for FOGO.

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

Bin Presentation

A new retaining wall parallel and setback a minimum of 1 metre from northern edge of new vehicle will be required as part of the civil works. The 1m setback has been requested to provide space for the presentation of waste bins for collection.

1.3. Landscape Officer**Tree Management Comments**

The initial site inspection of 09/04/26 (refer D06088750 & D06088743) revealed two mature, 8m tall *Jacaranda mimosifolia* (Jacaranda's) on Council's Inglethorpe Avenue verge, comprising one just past the southern site boundary and set of public stairs, in front of the adjoining private property at 1 Inglethorpe Avenue (not assessed in the Arborist Report), then one to its north, centrally in front of this development site (1 Roma Avenue, T34 in the Arborist Report) on the existing sloped embankment which rises from south to north.

Both are automatically protected by Part B5 of the RDCP due to their location on public property, and despite past clearance pruning away from the road and footpath, still appear in good health and fair condition, with their co-joined crowns noted to link with other established canopies to their north, which then extends further into the private Monastery grounds.

The location of both trees at the end of the street limits the amenity they provide; however, it is recognised that their value would increase as part of this proposal given their ability to assist with minimising the visual impact of the new building on the streetscape given its elevated position above street level.

There is an existing public footpath immediately to the east of the most southern street tree, which then links to the set of public stairs and pedestrian walkway, and while a major surface root is exposed above surface level in the verge, it leads to the south, away in the opposite direction to the development site and works, so would not be impacted at ground level (discussed further below), but as the northern aspect of its crown does overhang partially in front of the subject site, minimal clearance pruning appears needed, with conditions specifying that this can only be performed by Council, prior to commencement, and wholly at the applicant's cost.

When scaled off the Basement Plan (dwg DA03.001), the southern edge of the new crossing will be offset around 5600mm to its north, which is well beyond its 4.8m Tree Protection Zone (TPZ) radius, so while no direct threats are posed by these external works, minimal protection measures have still been applied to avoid secondary impacts such as damage from trucks, deliveries and similar during works.

While some of the plans appear to also show the introduction of new steps in the public footpath adjacent the southern site boundary, as part of the external civil works associated with matching alignment levels or similar, this would be well away to the northeast of the tree, at a similar distance to the crossing discussed above, so even if existing levels were altered there, would unlikely affect the tree, so conditions are not needed for this component.

Still on the verge, the smaller Bottlebrush that is immediately to the south of the Jacaranda described above, in front of the neighbouring site at 1 Ingelthorpe Avenue, is setback even further away from the development site and any works, and as its crown does not extend over the roadway, no conflict should result, so should remain unaffected, with conditions not even needed for this tree.

Still on the verge, to the north of those discussed above is another Jacaranda (Tree 34), directly in front of this development site, which is the smaller of the two due to being suppressed by other larger, more dominant trees nearby, and is in fair condition due to past lopping away from the overhead wires and its co-dominant leaders which emerge from a common point at ground level.

It is growing halfway up an unkept, sloped embankment that rises from street level to the north, and while the public footpath does not extend up into this area, a section of the brick wall/fence along the front property boundary blends into the embankment to its east, with existing kerb, gutter and roadway then at a lower level to its west.

The only available option for stand-alone vehicle access to this Lot is over this frontage, with the plans showing that a new vehicle crossing and bin presentation area will need to be constructed in direct conflict with this tree, involving the lowering of ground levels by up to 1200mm, along with the construction of a new retaining wall along its northern edge to support the differences in level there.

A combination of the sloped embankment and scope of works required to provide a compliant vehicle access means there is no space where these civil works could be re-designed or relocated to an alternative position whilst still retaining this tree, meaning its removal will be required, and can be justified in this case on the basis of needing to preserve larger, more prominent and desirable native species nearby, with conditions requiring the applicant to cover Council's costs for this.

Still on public property, to the northwest of the Jacaranda described above is then a large and mature, 20m x 12m *Eucalyptus grandis* (Flooded Gum, T33), which is the tallest specimen assessed for this application, and is a mature example of this native species that has a presence in the area due to a combination of both its substantial height and position at the end of the road.

It appears in good health and condition as well as being protected by the DCP, with the roadway terminating just to the south of its trunk, where a curved kerb and gutter and ceramic stormwater pipe were observed, with ground levels then rising steeply up to its north.

The new vehicle crossing for this development will involve excavations and the lowering of ground levels on the public verge to its east, which were scaled to be 2200mm away its closest point at the kerb and then around 2800mm to the supporting wall, but as the rest of the embankment to the east of the tree, and to north of this external work zone will remain undisturbed at existing levels (as shown on Detail 3, Retaining Wall on Council Land on dwg DA.05-101), this will assist in minimising root disturbance and damage.

Section 9.1.7 of the Arborist Report has calculated that the new crossing and retaining wall discussed above would amount to a 9% encroachment of its TPZ, which is categorised as minor and sustainable by this tree.

The temporary shoring wall and set of pedestrian stairs that were previously shown on public property, adjacent the front boundary, would have increased this encroachment to a cumulative total of 14%, placing these works into the major category, but as both of these external components have now been deleted from this area and will no longer form part of the application, this tree can be safely retained as part of this application, with relevant protection conditions and a bond imposed.

It is noted that the temporary shoring wall shown for public land beyond both the southern and western boundaries are still shown on the Ground Floor & Level 1 Boundary Retaining Wall Plans – Ground Floor & Level 1 Shoring Details, dwg's DA05.104 – 05.105 respectively. However, both the assessing officer and Development Engineer have confirmed this will not be supported, as all works need to be contained wholly within their private site, and as this would have posed additional threats to T33, conditions formally requiring their deletion from the public land have been provided.

Now progressing onto private property, just beyond the northwest corner of this development site, on the adjoining Lot 1 (DP1230316), and close to the common boundary is a mature, 13m tall *Banksia integrifolia* (Coastal Banksia, T12) which appears in good health and condition, and while not having any special ecological significance, is noted as making a positive contribution to site amenity.

The Tree Location & Values Plan in the Arborist Report, dwg T250411/01 (A), sheet 1, plots both the location of its trunk and the distribution of its crown in relation the development site more accurately than the generic image shown on the survey, and while the Arborist Report recommends removal of this tree, this was due to the external access stairs on Council's verge, the top of which would have finished in this same area, being in direct conflict with this tree.

While deletion of the stairway and temporary shoring wall from the public verge now eliminates this threat, the Tree Removal Plan, dwg DA01.501 still shows that a temporary wall and regrading works would need to extend beyond the northern boundary, onto the adjoining Lot where the tree is growing, and while these would be limited to its southeast aspect only, would be performed only 1200-2300mm from its trunk, which encroaches both its 2.6m SRZ and 6.6m TPZ radius.

Given its mature status and the poor tolerance of this species to disturbance, this is beyond what this tree could reasonably sustain, so its retention is not feasible in this case, with consent reluctantly granted for its removal. While noted that this tree is located beyond the development site, on an entirely different Lot, both are owned by the applicant, so consent can be lawfully given for this.

Other trees in this same area (on the adjoining Lot) are all sited at a greater distance from the common boundary and works, so would not be affected, particularly as the external pedestrian access stairs discussed further above will no longer be constructed, so comments for these are not needed.

Back within the subject site, there is firstly, towards the southwest corner, an insignificant, 5m tall *Cupressus sp.* (not identified or assessed in the Arborist Report), which can be removed given it is a low value exotic species that is directly affected by all aspects of the works.

To its east, centrally within the site is a semi-mature, 10m x 10m *Eucalyptus globulus* (Tasmanian Blue Gum, T11), which despite being a relatively rare non-endemic native species that is protected by the DCP, is in poor condition due to a combination of its lean/bias to the northwest, with a moderate wound at a height of 2 - 2.5m above ground level now leading to decay, where the fruiting body of a wood decaying fungus, *Phelinus sp.* has also been observed.

The presence of *Phelinus* is an indication that the internal structure of the tree has already begun to be broken down, and as it is irreversible, with no known cure, always results in tree death, as evidenced by its already thinning crown, which obviously reduces its suitability for retention, even irrespective of these works, and as the new footprint will occupy this same area, it requires removal, with the relevant consent for this provided.

To its northeast, at a slightly higher ground level is then an 11m tall *Banksia integrifolia* (Coastal Banksia, T10), which while being a desirable native species, could not be practically or reasonably incorporated into the works due to its central location, with consent grated for its removal as shown and sought, with the same also applying to the other group of smaller, juvenile specimens to the east, being two 4-5m tall *Callistemon viminalis* (Bottlebrush, T6-7) and two, 7-12m tall *Corymbia maculata* (Spotted Gums, T8-9), which have all insignificant at this point in time.

Lastly, further to their east, across the width of the rear boundary, in an open grassed area are two *Cinnamomum camphora* (Camphor Laurels), comprising from north to south, T4, which is a mature, 16m x 18m specimen, then a smaller, 14m x 8m example (T5), which has been suppressed by the more dominant T4.

Both have sustained past lopping and now display deadwood/dieback and sucker growth throughout their crowns (more so in T5), appear in fair health and condition and are protected by the DCP.

Their co-joined crowns would provide a degree of screening and separation for the adjoining private property at a lower ground level to the east, 2 Koorinda Avenue, which would be even more valuable to these neighbours upon completion of this proposal given the 7m height of the new building.

Presumably due to being recognised as environmental weeds in some LGA's (more so in rural areas), they have been assigned a Very Low/Insignificant Landscape Rating and Retention Value in the Arborist Report, which reduces their suitability for retention, even irrespective of these works.

When scaled off the survey the centre of the trunk of T4 is estimated to be 6400mm from the rear/eastern site boundary, and 6200mm for T5, with the Basement Level Plan, dwg DA03.001 showing that the eastern wall will be constructed a distance of 12m from the rear boundary, resulting in the footprint being a setback of around 5.5m to their west, with the Detention & Rainwater Tanks at Ground Level to then extend out past that, further to the east, beneath the outdoor terrace, which while being outside of their SRZ's, will encroach both of their TPZ's.

Whilst it may be possible to mitigate these components on their own, the main threat to both trees is identified as the significant excavations, lowering of existing ground levels and construction of perimeter retaining walls that appear needed to maximise accessibility and usability of the private open space by delivering a level area of lawn, with the Long Sections Plan, dwg DA10.102 showing that this would be in excess of 1800mm in height/depth, which the trees could not tolerate in any way.

If this lowering and levelling of the rear portion of the site was not undertaken as shown, and the area where the trees are growing was left undisturbed, a retaining wall of 1100-1700mm in height would need to be constructed across the rear/eastern elevation of the Ground Floor Level to support the differences in levels here, which would limit access to, and use of, the rear yard, and as the existing fall of the land from north to south would still remain as is, would be an impractical outcome as it would not be conducive to the recreation needs of future occupants/users due to not being a usable and functional outdoor space.

Council has not used this species in public planting programs for many decades now due to well-known issues with their large size, invasive and aggressive root systems and weed capabilities, with their retention only sought in very rare cases, such as where they have a direct association with a Heritage Item/Conservation Area or some other specific, overriding factor, which does not apply here, and on this basis, conditions grant consent for their removal.

It is acknowledged that the removal of all site trees to accommodate this development does not meet the objectives of Parts B4-5 of the RDCP; however, the comments provided above demonstrate there are justifications in each case, with any loss of amenity anticipated to be limited to the immediate area at most given the is setback from both street frontages, with no adjoining private properties to its north at all, which is where a large population of highly prized, significant/heritage listed trees exist, and along with the new planting detailed on the Landscape Plans, should be sufficient to ensure that reasonable levels of environmental amenity are maintained into the future.

Landscape Comments

This amended proposal reduces the basement footprint compared to the original submission, which directly increases deep soil, now providing an additional area in the northwest site corner, which will accommodate a Coastal Banksia tree in the 'Prayer Garden', and while a new area adjacent the northeast corner of the new dwelling does improve the amount of deep soil overall, will not contribute any additional planting here as due to being in the northern side setback, must remain accessible, so only decomposed gravel has been shown for this area.

These revised Landscape Plans now include a greater level of detail than what was previously provided, indicating numerous native canopy trees, comprising 4 x Coastal Banksia's, being one in the deep soil zone of the front setback and 3 x around the perimeter of the rear yard, which are deemed to replace T10 & T12, along with 2 x large Gums (Bangalay's) across the rear boundary, which are a desirable endemic species that would replace T11 and the large canopies of T4-5, so are all deemed adequate compensation in this situation.

These will be supplemented further by exotic, deciduous feature trees, being 1 x Crepe Myrtle in the front setback, on podium in the southwest corner, plus one more at the rear with along with a Frangipani, together with Bangalow Palms as accent planting, and lower, decorative type species.

While the steep fall of the land down to the south and the resulting need to step/terrace works in the front setback (as shown on the Landscape Sections Plan by Jane Irwin, dwg L-DA-201) limits opportunities for landscaping, there is no other viable outcome here, so is deemed reasonable, and while a new 1300mm high retaining wall will also be required in the rear setback, along the northern boundary, to support the differences in levels in that part of the site, this will then allow a level area of private open space to be provided, which is of most benefit to future users.

The practicality of the low masonry planter wall that is set back within the rear yard, parallel to the other wall along the eastern site boundary is questioned, as this would act as a physical barrier to the future growth of the row of trees that are nominated in this same area, with conditions requiring amendments so that this new tree planting, which will directly benefit screening and privacy for the adjoining neighbours at 2 Koorinda Avenue, is provided at grade, as this will give them the greatest chance of success, whilst also avoiding future damage to such structures.

The wall referred to above has not been represented on the Landscape Section Plan, dwg L-DA-201, so there is inconsistency in the level of detail shown on the documentation.

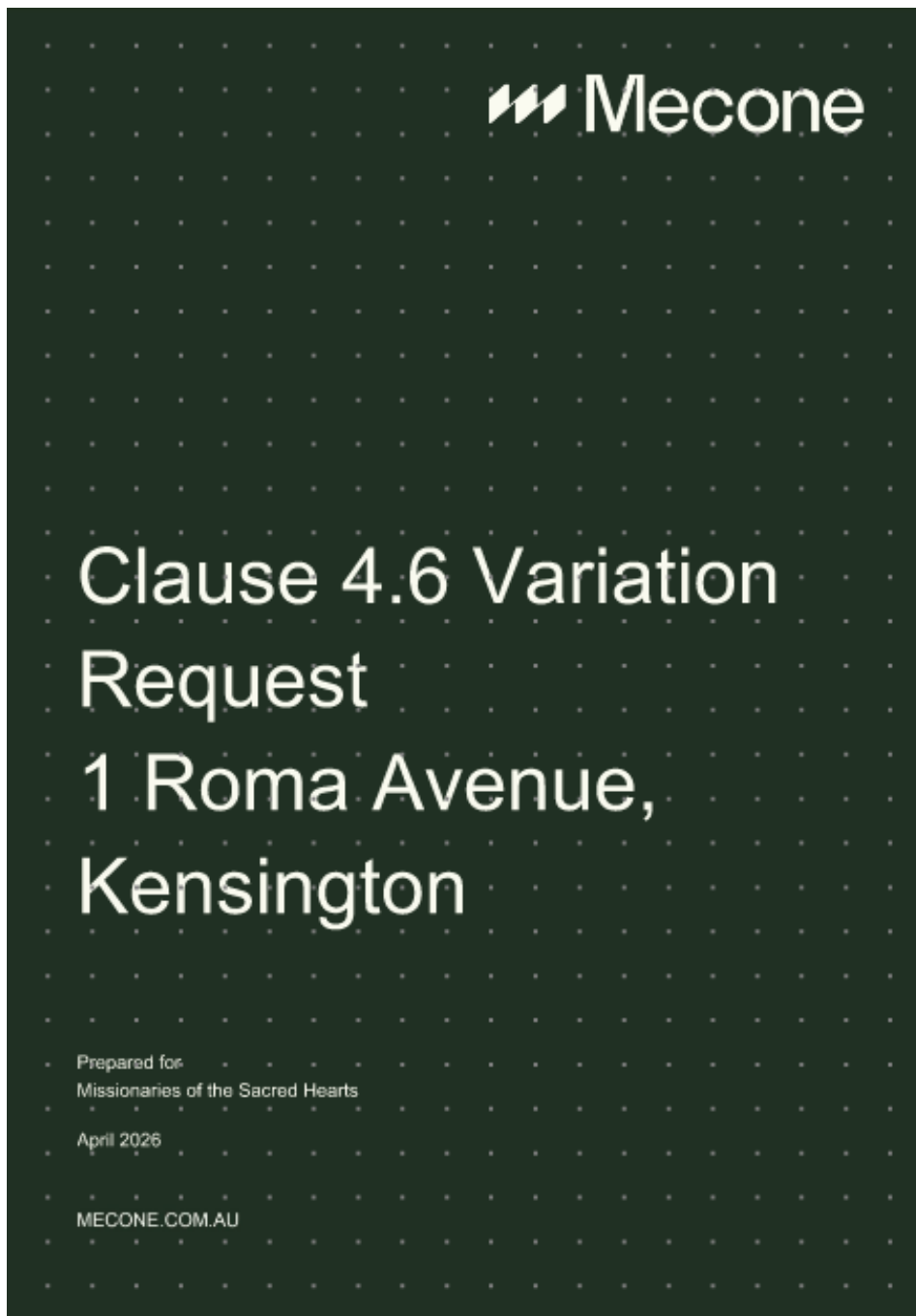
It is acknowledged that an arrangement of two low walls will be needed along the southern boundary, as is represented on the Landscape Plan GF & Level 1, dwg L-DA-101 and Sections Plan, dwg L-DA-201, in order to address the fall of the land in that part of the site; however, the same issues discussed above are also relevant here; in that large canopy trees have been indicated in restricted areas, being a large Gum Tree (EB) in the southeast site corner, that would be surrounded by walls on all four sides, as well as the two Coastal Banksia's (BI) along the southern boundary, with conditions requiring a re-arrangement so that species which are more suited for the space available are selected here.

Lastly, the Landscape Plans propose mass planting on the sloped public embankment adjacent the front boundary, and while this Officer is unaware of any discussions or agreements around such a proposal, conditions require this be to the satisfaction of the Coordinator Open Space/Assets Officers and similar.

D35/26

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

D35/26






Project director

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Revision	Revision date	Status	Authorised: Name & Signature
1	07/10/2025	Draft	James McBride
2	08/10/2025	Final issued	James McBride
3	31/03/2026	Amended Plan Revision	James McBride
4	28/04/2026	Amended Plan Revision 2	James McBride 

* This document is for discussion purposes only unless signed and dated by the persons identified. This document has been reviewed by the Project Director.

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1 Introduction

The Development Application (DA) for Inglethorpe Avenue, Kensington (the **site**) seeks approval for ancillary residential accommodation associated with a place of public worship.

The DA proposes an exceedance of the Floor Space Ratio (FSR) controls of the development standard that applies to the site pursuant to clause 4.4 of the *Randwick Local Environmental Plan (RLEP) 2012*.

Clause 4.6 of the RLEP states as follows:

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

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

The Clause 4:6 Variation Request demonstrates that strict compliance with the FSR development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the contravention.

This Clause 4.6 Variation Request demonstrates that, notwithstanding the non-compliance, the proposed development:

- Is consistent with and achieves the objectives of the development standard in Clause 4.4 of RLEP.
- Is consistent with and achieves the objectives of the R2 Low Density Residential land use zone under the RLEP.
- Will deliver a development that is appropriate for its context, despite the breach to the development standard, with sufficient environmental planning grounds to justify the variation.
- Is consistent with the overall land holding owned by Missionary of Sacred Hearts, the proponent.
- Will still achieve good design and amenity of the built environment.

Accordingly, subclauses 4.6(3)(a) and (b) of the RLEP are satisfied. Therefore, allowing the proposed variation to the development standard for the FSR is appropriate, such that Council has the power to grant consent.

This written variation request has therefore been prepared pursuant to clause 4.6 of the RLEP and forms a written request that justifies the contravention of the clause 4.4 Floor Space Ratio with regard to the specific circumstances of this proposal. It is submitted that permitting the proposed variation to Clause 4.4 will allow for an optimised planning outcome for the site.



2 Site Description

The site is identified as 1 Roma Avenue (also known as Inglethorpe Avenue), Kensington and is legally defined as Lot 272 in DP13208. The site has an area of approximately 701.9m² and has a primary frontage to Inglethorpe Avenue to the west.

The site is currently vacant and contains mature vegetation and open space bound by Addison Street, Tunstall Avenue, Kensington Road, Roma Avenue, as well as parcels to the east of Kensington Road. Figure 1 below illustrates the location of the subject site.

The site is adjacent to the Sacred Heart Heritage Conservation Area (HCA) and contains a number of local heritage items, including:

- Sacred Heart Monastery and Chapel at 1 Roma Avenue;
- Our Lady of the Sacred Heart Convent at 2 Kensington Road; and
- Our Lady of the Rosary Church at 1C Kensington Road.

The wider surrounding developments to the site's south, east and west is generally comprised of single low-storey dwellings.



Figure 1 Aerial View of the Site

Source: Mecone



3 Proposed Development

This DA seeks consent for residential accommodation ancillary to place of public worship, which includes associated landscaping on the site. Works on the adjacent MSC Monastery lot includes temporary shoring and landscape improvements.

The proposal comprises of a two and part three-storey dwelling house providing permanent residence for the provincial superior and other clergy of the MSC. This building will serve as the new provincialate residence comprising:

- 4 main bedrooms
- 2 guest bedrooms
- Study / library/ Oratory
- Private living spaces and amenities
- a single-level basement with –
 - 5 car parking spaces
 - waste storage
 - services



4 Relevant Planning Instrument, Development Standard and Proposed Variations

4.1 Environmental Planning Instrument to be varied

The Environmental Planning Instrument (EPI) to be varied is the RLEP 2012.

4.2 Site Zoning

The site is zoned R2 Low Density Residential; refer to **Figure 2** below for an extract of the RLEP land zoning map.

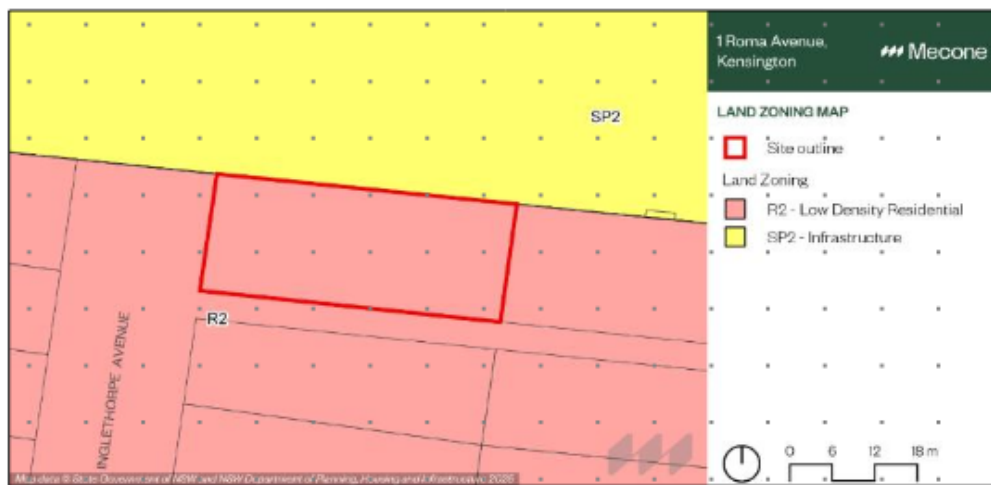


Figure 2: An extract of the RLEP and zoning map. The site is denoted by the red border.

Source: Mecone



4.3 · Development standards to be varied

The development standard proposed to be varied is Clause 4.4 – Floor Space Ratio of the RLEP. Clause 4.4(2) states:

“The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.”

As illustrated in **Figure 3**; the RLEP Floor Space Ratio Map prescribes a maximum FSR of 0.5:1 for the subject site.

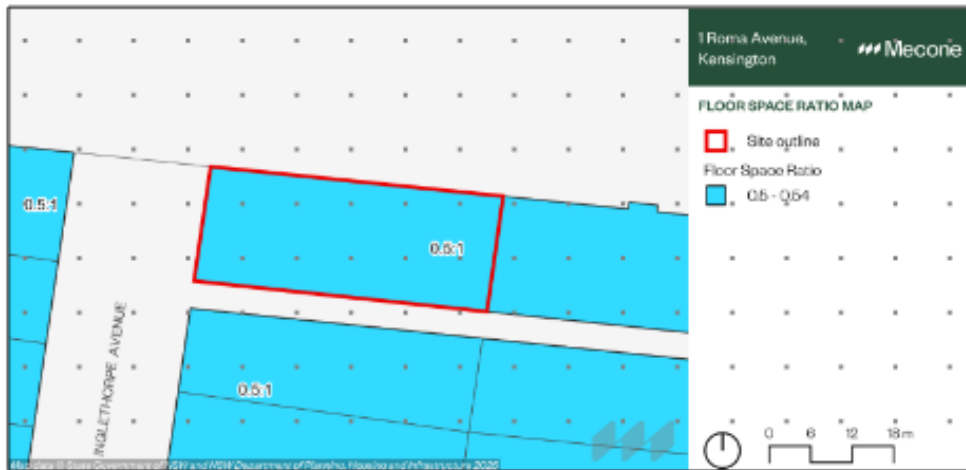


Figure 3: An extract of the RLEP and FSR map. The site is denoted by the red border.

Source: Meconie

The applicable development standard proposed to be varied is the FSR development standard of 0.5:1 under Clause 4.4 of the RLEP.

At the Pre-DA meeting with Randwick City Council (**Council**) held on 10 September 2025, it was confirmed that the proposed development would be considered ancillary residential accommodation to a Place of Public Worship. Despite this classification, Council advised that the DA will be assessed on a merit-based approach akin to a residential dwelling which would enjoy an FSR of 0.6:1 pursuant to Clause 4.4A of the RLEP.

While the FSR controls applicable to dwelling houses are acknowledged, they are not applicable to this assessment. The FSR of 0.5:1 remains the relevant standard for the proposed development.

For reference, the following FSR controls apply to dwelling houses under the LEP:

(2) *The maximum floor space ratio for a building used for the purposes specified in the table to this subclause is the ratio determined in accordance with the table.*

Land use	Zone	Lot size	Maximum floor space ratio
Dwelling houses, semi-detached dwellings	Zone R2	≥275m ² and ≤300m ²	0.65:1
		>300m ²	0.6:1
	Zone R3	>300m ² and ≤450m ²	0.75:1
		>450m ² and ≤600m ²	0.65:1
		>600m ²	0.6:1

Given the site's zoning, lot size, and the ancillary nature of the proposed residential use to a Place of Public Worship, the FSR of 0.5:1 remains applicable and has been adopted for the purpose of this assessment.

4.4 Details of proposed clause 4:4 floor space ratio variation

The proposed development seeks a variation to Clause 4.4 – Floor Space Ratio of the RLEP. The RLEP prescribes a maximum FSR of 0.5:1 for the subject site. The proposed development comprises an FSR of 0.75:1, resulting in a variation of 0.25:1, or a 50% increase above the permitted standard.

This exceedance is primarily attributed to the inclusion of ancillary residential accommodation for clergy within the Place of Public Worship. The design provides adequate internal amenity, including sitting areas and individual ensuites for each resident, which contributes to the overall gross floor area.

It is important to note that the site forms part of a larger landholding under the ownership of the Missionaries of the Sacred Heart (MSC), which includes adjoining land to the north. The proposed development is directly related to the religious operations of the MSC and functions as an ancillary facility. If the broader MSC landholding were considered as part of the development site, the proposal would be compliant with the FSR control. However, for the purposes of this application, the variation is assessed on merit.

The proposed FSR is considered appropriate in the context of the site's unique use, ownership and relationship to the adjoining MSC land and does not result in any adverse environmental or amenity impacts.



Figure 4: Ground Floor.

Source: Cortese Gilder

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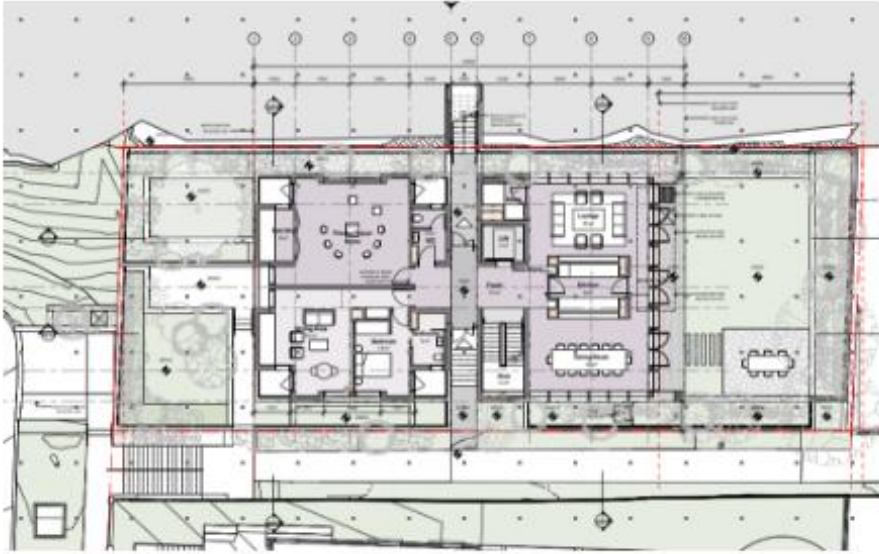


Figure 5: First Floor.

Source: Cortese Glider





5 Justification for contravention of the development standard

Clause 4.6 of the RLEP states that:

(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.

Certain additional subclauses then follow, although the pertinent subclauses are provided above.

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court. These decisions are referenced in the reasoning below.

5.1 Clause 4.6 (3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe v Pittwater Council* (2007) NSW LEC 827 (Wehbe), Preston CJ set out the following 5 different ways in which an objection (variation) may be well founded and under which a proponent could demonstrate that compliance with a development standard is unreasonable or unnecessary as per clause 4.6(3)(a).

For reference, the five ways in which a variation may be well founded are listed as follows:

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



- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

It is generally understood that Clause 4.6(3) can be satisfied if it is established that a development satisfies one or more of the above points. In this instance, the first point has been reviewed and is considered to be well founded for the proposed development.

The objectives of the FSR pursuant to Clause 4.4 of the RLEP are provided below, with a response as to how that objective is achieved notwithstanding noncompliance with the standard:

Table 1: RLEP Clause 4.4 Objectives

Item	Description
(a) To ensure that size and scale of development is compatible with the desired future character of the locality,	<p>The surrounding locality is characterised by low-density residential development and the MSC including a place of worship and educational establishments. The proposed built form has been carefully designed to maintain consistency with the prevailing neighbourhood character and visual streetscape.</p> <p>The siting of the proposal provides generous setbacks and separation to site boundaries and adjoining properties. The scale, articulation and materiality of the development respond appropriately to the context, ensuring that it integrates harmoniously with adjacent dwellings and contributes positively to the established urban form.</p>
(b) To ensure that buildings are well articulated and respond to environmental and energy needs,	<p>Through the use of varied materials and integrated landscaping, the design enhances visual interest and reduces perceived bulk, ensuring the building is appropriately set back and scaled within its streetscape context. Shaded areas and additional planting contribute to reduced heat gain and improved thermal comfort. A BASIX Certificate and assessment report has been completed for the development, confirming compliance with energy efficiency, water conservation, and thermal performance requirements.</p>
(c) To ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,	<p>The subject site and building are currently owned by the MSC. The proposed development has been carefully designed to respond to the scale, character, and heritage context of the surrounding area. In particular, the design seeks to integrate sensitively with the heritage-listed items located on the adjacent MSC land, ensuring that the built form complements and respects the cultural significance of the broader</p>



	precinct. Through thoughtful siting, material selection, and architectural articulation, the proposal aims to achieve a cohesive relationship with the existing heritage items and neighbourhood character while supporting the ongoing religious and community functions of the MSC.
(d) <i>To ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</i>	The site is located on sloping land and integrates well with the established character of the surrounding neighbourhood. The proposed development has been designed and set to minimise visual bulk and overshadowing, while ensuring compatibility with adjacent properties. Importantly, the proposal does not result in any unreasonable overshadowing, loss of privacy, or obstruction of views, thereby maintaining the amenity of neighbouring land.

5.2 Clause 4.6(3)(b) – Environmental planning grounds to justify contravention of the development standard

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 the Court found at [23]-[24] that:

23. *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. 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 s 1.3 of the EPA Act.*
24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.*
25. *The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

In this regard, we submit that there are numerous and substantive environmental planning grounds to justify the proposed contraventions of the FSR and are detailed below.



particularly in regard to the rear setback, with the laneway providing additional separation and further reducing potential impacts on the southern neighbour.

Overall, the proposed built form has been carefully designed to respect the existing rhythm and scale of the streetscape, the proposal does not dominate or disrupt the established character and its discreet location and limited exposure contribute to a low visual impact, reinforcing its compatibility with the surrounding urban fabric.

Visual Screening and Landscape Character

Existing mature vegetation along the street frontage and within the adjoining MSC land provides a natural screen that softens the visual presence of the proposed development. This canopy, combined with additional landscaping proposed as part of the development, enhances the integration of the site into the landscape and reduces the perceived bulk of the proposed building. The retention and reinforcement of green elements support the variation by demonstrating a sensitive response to the site's environmental context and visual character.

Separation from Residential Dwellings

The site benefits from a physical and functional buffer in the form of a public walkway that separates it from the nearest residential dwelling to the south. When combined with the walkway, the development maintains a 7.1m separation to the neighbouring property. Additionally, the rear volume to the east sits within the DCP setback envelope, hence the proposed siting is appropriate and would achieve minimal solar and privacy impacts to the neighbouring property. Additionally, screening devices within the façade of the upper-level is provided to further minimise potential overlooking onto the neighbouring properties. These ensure that the proposed increase in FSR does not result in adverse impacts on residential amenity, including privacy, noise and overshadowing. The walkway acts as a transitional space, maintaining a clear distinction between the Place of Public Worship and adjacent residential uses and thereby mitigating any potential land use conflicts.

Land Use Consideration

Although the site is zoned R2 Low Density Residential, the proposed development is directly associated with the religious operations of the adjoining MSC facility. The inclusion of ancillary residential accommodation for clergy is integral to the ongoing function and management of the Place of Public Worship. This unique land use context warrants a more flexible interpretation of the FSR control, recognising the operational needs of the religious institution and the ancillary nature of the proposed use.

Environmental Impacts

The proposal has been designed with careful consideration of environmental and amenity impacts. Building siting, orientation, and massing have been optimised to minimise overshadowing, overlooking, and visual intrusion. Adequate boundary setbacks and screening devices within the the façade of the upper-level is provided to minimise potential overlooking to the neighbouring properties. Landscaping treatments further mitigate potential impacts and enhance the site's compatibility with the surrounding built form. The architectural response is modest and respectful of neighbouring properties, contributing positively to the streetscape while maintaining the amenity of adjacent residential areas.



Topography and Built Form Integration

The site exhibits a natural slope, which has been strategically utilised in the architectural design to embed the building into the existing landform. The proposed development adopts a split-level configuration and stepped massing that follows the site's contours, thereby reducing the need for excessive excavation or fill. This approach ensures that the building's height and bulk minimally impact the neighbourhood when viewed from surrounding properties and the public domain. By aligning the built form with the topographic profile, the proposal achieves a lower visual impact, maintains a human scale, and enhances compatibility with the surrounding landscape character. The design response demonstrates a clear understanding of site constraints and leverages the topography to deliver a context-sensitive outcome that supports the proposed FSR variation.



6 Conclusion

Having regard to the provisions within both clauses 4.4 and 4.6 of the RLEP, we have formed the considered opinion that:

- a) The contextually responsive development is consistent with the objectives of the FSR standard pursuant to clause 4.4 of the RLEP, and
- b) The application does not vary development standard for a development that is subject to the application of clause 4.6(8) of the RLEP, and
- c) There are sufficient environmental planning grounds to justify contravening the development standard, and
- d) That having regard to a) and b), compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case.

Pursuant to clause 4.6(3) of RLEP, the consent authority can be satisfied that the applicant's written request has adequately demonstrated that:

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

In conclusion; we believe that in working with the constraints of the site, the proposed FSR contravention present superior planning and design outcomes when compared to alternative options that were explored throughout the design process. Further, we have formed the considered opinion that there is no statutory or environmental planning impediment to the approval of a FSR contravention in this instance.

As this written request has satisfied statutory requirements pursuant to clause 4.6 of the RLEP, the proposed variation to the floor space ratio development standard can be approved.

Appendix 3: DCP Compliance Table

3.1 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.

3.2 Part B4: Landscaping and Biodiversity

Council is satisfied that the proposed development meets the landscape requirements in accordance with Part B4 of RDCP 2013. Refer to assessment by Council's Landscape Officer in the Appendix 1 section of this report.

3.3 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 noting the replacement undertaken onsite and the retention of tree emplacement within the public domain. Refer to detailed assessment by Council's Landscape Officer at the Appendix 1 section of this report.

3.4 Part B6: Recycling and Waste Management

Council is satisfied that the proposed development can meet the waste requirements in accordance with Part B6 of RDCP 2013. Refer to assessment by Council's Development Engineer at the Appendix 1 section of this report.

3.5 Part B7: Transport, Traffic, Parking and Access

Council is satisfied that the proposed development meets the parking requirements for the rectory that is ancillary to wider religious campus noting the detailed merit assessment undertaken by Council's Development Engineer at Appendix 1 in support of the proposal.

3.6 Section C1: Low Density Residential

Note: The subject proposal does not seek consent for a dwelling house, however an assessment has been provided against the relevant controls for lower density development due to the locational context within the R2 Low Density Residential Zone for the completeness of assessment and to compare the rectory with private residential dwellings in Inglethorpe Avenue.

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	Yes – ancillary to place of public worship.
2	Site planning	Site = 701.9m ²	
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)	Proposed = 450m ² (64%) To be reduced via condition by approximately 15m ² to 435m ² – 61% via the removal of structures over the entrance driveway to address concerns in relation to the front setback alignment, streetscape presentation of a 3.1m retaining wall within the public domain at the base of the Council pedestrian access stair and ensure compliance with retaining wall controls under the Earthworks requirements of the DCP. When not accounting for the basement entrance within the front setback that provides internal DDA access from street level for future occupants of the rectory. The site coverage of the ground level up to Level 2 is 270m ² , which is considerably below the maximum at approximately 38%.	No - refer to key issues above. Acceptable on merit.
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm i) Retain existing significant trees	Proposed = 217m ² (30.9%) To be increased via condition by 20m ² – 237m ² (34%)	No refer to key issues assessment above. Acceptable on merit.

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DCP Clause	Controls	Proposal	Compliance
	ii) Minimum 25% front setback area permeable surfaces	When combined with landscaped areas and planter boxes on slab – 342m ² (48%) 35% of front setback provided as deep soil in north-western corner of the site – Compliant.	
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	Proposed = 10 trees proposed 35% of front setback provided as deep soil in north-western corner of the site. Species selection reviewed by Council's Landscaping Officer.	Yes
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Proposed = Multiple areas within the front and rear setback that exceed the minimum requirement. Rear yard approx. 9m x 12m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.5:1	Proposed = 0.75:1	No – refer to Clause 4.6 assessment above.
3.2	Building height		
	Building height LEP 2012 = 9.5m	Proposed = 8.47m	Yes
	i) Habitable space above 1st floor level must be integrated into roofline ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height at street frontage v) Alternative design which varies 2 storey street presentation may be accepted with regards to: - Topography - Site orientation - Lot configuration - Flooding - Lot dimensions - Impacts on visual amenity, solar access, privacy and views of adjoining properties.	Proposed = Level 2 reduced in height to comply with NCC / BCA minimum and align the development generally with the ridge height of 1 Inglethorpe (minor increase of 490mm in the context of an average 1.5m level difference and the elevated crossfall within the subject site. Ground and Level 1 which contain living areas meet the 2.7m ceiling height requirement and comply with the floor to	No refer to key issues assessment above. Supported on merit.

DCP Clause	Controls	Proposal	Compliance
		<p>floor height requirements.</p> <p>Refer to key issues assessment above regarding 3 to 4 storey street frontage presentation noting the elevated topography and 8.25m fall to the street frontage within a character area with dwellings ranging from 1-3 storeys in height and transition from institutional buildings within the religious campus further to the north..</p>	
3.3	Setbacks		
3.3.1	<p>Front setbacks</p> <p>i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment.</p> <p>ii) Corner allotments: Secondary street frontage:</p> <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites - Should align with setbacks of adjoining dwellings <p>iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.</p>	<p>Proposed = Basement entrance nil setback inconsistent with streetscape pattern. Conditioned for increase of 2.65m to align with roller shutter and internal pedestrian entrance door and provide a transition with the 5m setbacks along the eastern side of Inglethorpe Ave.</p> <p>Remaining setbacks to upper levels summarised as follows:</p> <ul style="list-style-type: none"> • <u>Ground level</u> 8m – neighbouring 5 to 5.5m – Complies. • <u>Level 1</u> 7.5m to 8.2m – neighbouring 5 to 5.5m – Complies. • <u>Level 2</u> 8m to balconies and 9m to façade – Neighbouring approximately 9m - Complies 	<p>No - subject to basement realignment condition. Refer to key issues above.</p>
3.3.2	Side setbacks	<p>Proposed = Frontage – 16.42m</p> <p><u>Ground Level</u> 1.2m required 1.35m proposed</p> <p><u>Level 1</u></p>	<p>Partial breach to front roof parapet only. Refer to key issues assessment above –</p>


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DCP Clause	Controls	Proposal	Compliance																								
	<table border="1"> <thead> <tr> <th colspan="4" style="background-color: #c6e0b4;">Minimum side setbacks</th> </tr> <tr> <th style="background-color: #d9d9d9;">Existing primary frontage width</th> <th style="background-color: #d9d9d9;">Setback up to 4.5m from ground level (existing)</th> <th style="background-color: #d9d9d9;">Setback between 4.5m to 7m from ground level (existing)</th> <th style="background-color: #d9d9d9;">Setback above 7m from ground level (existing)</th> </tr> </thead> <tbody> <tr> <td>Less than 6m</td> <td colspan="3" style="text-align: center;">Merit assessment</td> </tr> <tr> <td>6m to less than 9m</td> <td style="text-align: center;">0.9m</td> <td style="text-align: center;">0.9m</td> <td style="text-align: center;">0.9m + (building height – 7m)</td> </tr> <tr> <td>9m to less than 12m</td> <td style="text-align: center;">0.9m</td> <td style="text-align: center;">$0.9m + \frac{\text{building height} - 4.5m}{4}$</td> <td style="text-align: center;">$1.5m + 2 \times (\text{building height} - 7m)$</td> </tr> <tr> <td>12m and above</td> <td style="text-align: center;">1.2m</td> <td style="text-align: center;">$1.2m + \frac{\text{building height} - 4.5m}{4}$</td> <td style="text-align: center;">$1.8m + 2 \times (\text{building height} - 7m)$</td> </tr> </tbody> </table>	Minimum side setbacks				Existing primary frontage width	Setback up to 4.5m from ground level (existing)	Setback between 4.5m to 7m from ground level (existing)	Setback above 7m from ground level (existing)	Less than 6m	Merit assessment			6m to less than 9m	0.9m	0.9m	0.9m + (building height – 7m)	9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$	12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	<p>1.2m required 1.65-1.7m proposed <u>Level 2</u> 1.6m-1.975m required 1.75m proposed</p> <p>Partial 225mm breach in south western corner.</p>	<p>predominantly compliant except for south-western corner parapet.</p>
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<p>3.3.3</p>	<p>Rear setbacks</p> <p>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</p> <p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> - Existing predominant rear setback line - Reasonable view sharing (public and private) - Protect the privacy and solar access <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p><i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i></p> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings.</p>	<p>Minimum = 8m Proposed = <u>Level 1</u> 11.5 to 12m <u>Level 2</u> 11.5 to 12m</p> <p>Refer to diagram below showing the variation in rear building setbacks along Inglethorpe Avenue. The setbacks along the eastern side of the street generally vary from 10m to 17.5m and as such the proposal is not considered to be inconsistent with the predominant rear setback line. In addition, the increased separation distance from neighbouring properties afforded by the Council access path will assist in the mitigation of solar and privacy, subject to the recommended consent conditions.</p>	<p>Yes</p>																								

DCP Clause	Controls	Proposal	Compliance
			
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	Building envelope provided with high levels of articulation to all facades and utilises the 9m slope, incorporates high quality building materials and accommodates bedroom sizes all above the minimum requirement.	Yes
4.4	Roof terraces and balconies		
	i) Locate on stepped buildings only (not on uppermost or main roof) ii) Where provided, roof terraces must: <ul style="list-style-type: none"> • Prevent overlooking • Size minimised • Secondary POS – no kitchens, BBQs or the like • Maintain view sharing, minimise structures and roof top elements • Be uncovered and comply with maximum height iii) Locate above garages on sloping sites (where garage is on low side) <i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i>	No roof terrace proposed.	N/A
4.5	Roof design and features		
	Dormers	Simple parapet style	Yes

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DCP Clause	Controls	Proposal	Compliance
	i) Dormer windows do not dominate ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. iii) Multiple dormers consistent iv) Suitable for existing <i>Clerestory windows and skylights</i> v) Sympathetic to design of dwelling <i>Mechanical equipment</i> vi) Contained within roof form and not visible from street and surrounding properties.	roof proposed to minimise overall building height and generally align the building envelope with neighbouring development.	
4.6	Colours, Materials and Finishes		
	i) Schedule of materials and finishes. ii) Finishing is durable and non-reflective and uses lighter colours. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) Recycle and re-use sandstone	Suitable subject to condition for detailed submission.	Yes – subject to condition.
4.7	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Subterranean spaces must not be habitable iv) Step retaining walls. v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vii) cut and fill for POS is terraced <i>where site has significant slope:</i> viii) adopt a split-level design ix) Minimise height and extent of any exposed under-croft areas.	Earthworks afforded with 6m separation distance to nearest neighbouring structures due to Council pedestrian pathway adjoining southern boundary. Basement garage proposed with 3.1m retaining at a nil front setback, which is not supported under the control provisions. Retaining wall and terrace overhang to be deleted from design and reduced to a maximum of 1.5m high as per the DCP.	Yes – subject to condition.
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	Living room and POS orientated to the east and will receive in excess of 3 hrs during the morning of the winter solstice.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room	Upper-level north	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June.</p> <p>iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.</p> <p>v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.</p> <p>vi) Variations may be acceptable subject to a merits assessment with regard to:</p> <ul style="list-style-type: none"> • Degree of meeting the FSR, height, setbacks and site coverage controls. • Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. • Topography of the subject and adjoining allotments. • Location and level of the windows in question. • Shadows cast by existing buildings on the neighbouring allotments. 	<p>facing windows of 1 Inglethorpe afforded with solar access through a majority of the day to bedrooms and bathroom areas at this level.</p> <p>Primary living area and private open space to the east will continue to receive adequate solar access from 8am to 2pm. The northern formal dining and lounge room windows are impacted by the proposal but will continue to receive partial solar access above the fence line from 11am to 3pm in midwinter.</p>	
	<p style="text-align: center;">Listed November 2022</p>  <p style="text-align: center;">SCALE (METRES)</p> <p style="text-align: center;">PLANS SHOWN ONLY INDICATIVE OF LAYOUT. DIMENSIONS ARE APPROXIMATE. Ref. No: 100613</p> <p style="text-align: center;">1 INGLETHORPE AVENUE KENSINGTON</p>		
<p>5.2</p>	<p>Energy Efficiency and Natural Ventilation</p>		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures</p>	<p>All areas of the development are afforded with natural ventilation and light,</p>	<p>Yes</p>

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DCP Clause	Controls	Proposal	Compliance
	such as: <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls i) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries ii) Living rooms contain windows and doors opening to outdoor areas <i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable	inclusive of living areas, bedrooms and bathrooms.	
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	All southern elevation windows treated with 1.6m privacy treatments. Along with Level 2 eastern rear façade.	Yes – subject to condition.
	Balcony		
	iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) Minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	All southern elevation Juliet balconies treated with 1.6m privacy screen.	Yes – subject to condition.
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	Living area orientated to rear consistent with neighbouring properties.	Yes
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site)	Entrances provided to front and side of the	Yes

DCP Clause	Controls	Proposal	Compliance
	ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	site via public access footpath along southern side boundary in relation to 8.25m level change from rear to site frontage. Remaining matters capable of compliance in terms of surveillance and street numbering.	
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.	No identified view impacts identified to result from subject proposal.	Yes
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	All dwellings		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m; and - Consistent with pattern in the street; and - Landscaping provided in the front yard. v) Tandem parking may be considered vi) Avoid long driveways (impermeable surfaces)	Single access of sole street frontage consistent with neighbouring development in terms of location. Single 3.6m entrance suitable for 16.42m frontage.	Yes
6.2	Parking Facilities forward of front façade alignment		
	i) The following may be considered: - An uncovered single car space - A single carport (max. external width of not more than 3m and - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: - There is no alternative, feasible location	Basement provided within front setback noting limited alternate locations, significant slope to street level, no impact to visual amenity subject to condition increasing setback transition in south-western site corner, no risk to pedestrian safety	

D35/26

DCP Clause	Controls	Proposal	Compliance
	for accommodating car parking; <ul style="list-style-type: none"> - Significant slope down to street level - does not adversely affect the visual amenity of the street and the surrounding areas; - does not pose risk to pedestrian safety and - does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls) - Compliments architectural character of dwelling ie roof pitch and finishes. 	identified or involve the removal of significant landscape elements with trees at the end of the cul-de-sac proposed for retention.	
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> - Nil side setback on adjoining property; - Streetscape compatibility; - Safe for drivers and pedestrians; - Amalgamated driveway crossing. 	Nil side setback provide to basement noting substantial 6m separation to neighbour and that excavated areas would be concealed by the established levels of the pedestrian pathway.	Yes
6.4	Driveway Configuration		
	Maximum driveway width: <ul style="list-style-type: none"> - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	3.6m single driveway supported by Council's Development Engineer.	Yes
6.5	Garage Configuration		
	i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): <ul style="list-style-type: none"> - Single garage – 3m - Double garage – 6m iii) Min. 5.4m length of garage iv) Max. 2.6m wall height and 3m building height (for pitched roof) for detached garages v) Recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) Minimum clearance 2.2m (AS2890.1)	Basement recessed below natural ground level. Additional front setback transition conditioned to setback parking structures from the public domain. Remaining design controls satisfied.	Yes
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	i) Use durable materials ii) Sandstone not rendered or painted iii) Do not use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	Metal palisade design.	Yes
7.2	Front Fencing		
	i) 1200mm max. (solid portion not exceeding 600mm), except for piers. <ul style="list-style-type: none"> - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) Light weight materials used for open design	Basement garage and terrace area above conditioned to provide additional setback to recess bulk of parking	Acceptable on merit – subject to condition.

DCP Clause	Controls	Proposal	Compliance
	<p>and evenly distributed</p> <p>iii) 1800mm max solid front fence permitted in the following scenarios:</p> <ul style="list-style-type: none"> - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <p><i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> <p>iv) 150mm allowance (above max fence height) for stepped sites</p> <p>v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible</p> <p>vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes.</p> <p>vii) Gates must not open over public land.</p> <p>viii) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.</p>	<p>structures further from the public domain and reduce proposed retaining wall heights.</p>	
7.3	Side and rear fencing		
	<p>i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m).</p> <p>ii) Fence may exceed max. if level difference between sites</p> <p>iii) Taper down to front fence height once past the front façade alignment.</p> <p>iv) Both sides treated and finished.</p>	<p>1.2m high to southern side interface. Open design for surveillance.</p>	<p>Yes</p>
7.6	Air conditioning equipment		
	<p>i) Minimise visibility from street.</p> <p>ii) Avoid locating on the street or laneway elevation of buildings.</p> <p>iii) Screen roof mounted A/C from view by parapet walls, or within the roof form.</p> <p>iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.</p>	<p>AC units concealed within roof form and offset from neighbouring receivers.</p>	
7.8	Clothes Drying Facilities		
	<p>i) Located behind the front alignment and not be prominently visible from the street</p>	<p>Areas available within rear setback.</p>	<p>Yes</p>
7.9	Utility Connections		
	<p>If power pole is within 15m of site (on same side of street), applicant must meet full cost for Ausgrid to relocate.</p>	<p>Reviewed by Council's Development Engineer.</p>	<p>Yes</p>

Responsible officer: Louis Coorey, Senior Environmental Planning Officer

File Reference: DA/1198/2025

Draft Development Consent Conditions



Folder /DA No:	DA/1198/2025
Property:	1 Roma Avenue, Kensington
Proposal:	Erection of residential accommodation comprising a part-2, part-3 storey residential accommodation that is ancillary to a place of public worship (Sacred Heart Monastery), including tree removal, installation of retaining walls, associated ancillary, temporary shorting and landscaping works (Heritage Item and Conservation Area, Variation to Floor Space Ratio).
Recommendation:	Approval

GENERAL CONDITIONS

Condition

1. **Approved plans and documentation**

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

Plan	Drawn by	Dated	Received by Council
DA01.101 – Site Plan	Cortese Gilder	12/09/2025	30/04/2026
DA01.201 – Demolition Plan	Cortese Gilder	12/09/2025	30/04/2026
DA01.501 – Tree Removal Plan	Cortese Gilder	12/09/2025	30/04/2026
DA03.001 – Basement	Cortese Gilder	12/09/2025	30/04/2026
DA03.100 – Ground Floor	Cortese Gilder	12/09/2025	30/04/2026
DA03.101 – Level 1	Cortese Gilder	12/09/2025	30/04/2026
DA03.102 – Level 2	Cortese Gilder	12/09/2025	30/04/2026
DA03.103 – Roof	Cortese Gilder	12/09/2025	30/04/2026
DA09.101 – South & North Elevations	Cortese Gilder	12/09/2025	30/04/2026
DA09.102 – West & East Elevations	Cortese Gilder	12/09/2025	30/04/2026
DA09.103 – Inglethorpe Ave Elevation	Cortese Gilder	12/09/2025	30/04/2026
DA10.101 – Cross Sections	Cortese Gilder	14/10/2025	30/04/2026
DA10.102 – Long Sections	Cortese Gilder	14/10/2025	30/04/2026
DA90.001 – External Material	Cortese Gilder	31/10/2025	30/04/2026

Condition		
Palette		
BASIX Certificate No.	Dated	Received by Council
1815313M_02	28 April 2026	30 April 2026

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

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

2. Amendment of Plans & Documentation

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

- a. A privacy screen having a height of 1.6m (measured above finished balcony floor level) shall be provided to the southern balustrade of the central bedroom level 1 and level 2 balconies facing 1 Inglethorpe Avenue.

Privacy screen/s must be constructed with either:

- Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
 - Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
- b. The following window/s must have a minimum sill height of 1.6m above floor level, or alternatively, the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:
 - Level 1 southern elevation bedroom, sitting room and Dining Room Windows.
 - Level 2 southern elevation sitting room, bedroom and study / library windows.
 - Level 2 eastern elevation study / library windows.
 - c. All shoring, piling and retaining wall works are to occur within the subject site including temporary shoring measures. No permission is granted for any works on Council land, with an amended civil works package to be submitted and endorsed via a formal civil works application submission prior to the release of any construction certificate.
 - d. The hardstand paving adjacent to the proposed rear elevation must be converted to deep soil or permeable paving with the roof overhang reduced to a 500mm cantilever and the associated support columns deleted from the plans. The portion of the rainwater tank and detention tank shown within this zone must also be relocated within the building envelope to enable permeability.
 - e. The portion of the elevated terrace and retaining wall indicated to the west of the roller shutter and internal pedestrian access door must be deleted and provided as an uncovered driveway area. The above landscaping can be reconfigured to accommodate this change, with the resultant southern boundary retaining wall adjacent to the public stair lowered to a maximum height of 1.6m above the proposed driveway level.
 - f. The unidentified areas within plan DA03.100 – Ground Floor, dated 30/04/2026, are to be for the purpose of storage, services, or plant and equipment only. The amended plans are to be updated to clearly identify the uses of all rooms within

Condition

the Ground Floor level.

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

Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

BUILDING WORK**BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

Condition

3. **Consent Requirements**

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

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

4. **External Colours, Materials & Finishes**

The colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application.

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

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

5. **Section 7.12 Development Contributions**

Development Contributions are required in accordance with the applicable Randwick City Council Development Contributions Plan, based on the development cost of \$7,518,308.60 the following applicable monetary levy must be paid to Council: \$75,183.10.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone **9093 6000** or **1300 722 542** for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$IDC = ODC \times CP2/CP1$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Condition

Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Condition Reason: To ensure relevant contributions are paid.

6. **Long Service Levy Payments**

Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.

Condition Reason: To ensure the long service levy is paid.

7. **Security Deposits**

The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- **\$5000.00** - Damage / Civil Works Security Deposit

Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.

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

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

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

8. **Sydney Water**

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

The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

The Tap in™ service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams

Condition

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

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

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

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

9. **Building Code of Australia**

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

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

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

10. **BASIX Requirements**

In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

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

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

Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.

11. **Site stability, Excavation and Construction work**

A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:

- (a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties.
- (b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.

Condition

- (c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.
- (d) Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work.
- (e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the appointed Certifier for the development prior to issue of a relevant construction certificate.

Condition Reason: To ensure the subject site/development and adjoining land is adequately supported and protected during any works.

12. **Survey Infrastructure**

Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed Certifying Authority and the Council that includes and addresses the following:

- (a) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site.
- (b) The above letter is required to confirm if any survey infrastructure will be affected or impacted upon by the proposal. If no impact is identified this must be detailed by the Registered Land Surveyor.
- (c) In the event that survey infrastructure is identified as vulnerable or will be affected or impacted upon by the approved development, a copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report) is required.

The applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

Note: Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any [survey mark](#) unless authorised to do so by the [Surveyor-General](#).

Condition Reason: To ensure the development satisfies requirements with regards to the Preservation of Survey Infrastructure (POSI) under Section 24 of the Surveying and Spatial Information Act 2002.

13. **Civil Works**

A separate written approval from Council is required to be obtained in relation to all works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the Roads Act 1993. Detailed plans and specifications of the proposed works are to be submitted to and approved by Council's Asset/Development Engineers prior to commencing of any works within

	Condition
	<p>the road reserve/public place.</p> <p>All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a certified practicing engineer is to be provided to Council upon completion of the works.</p> <p>Relevant Council assessment and inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.</p> <p>Condition Reason: To ensure compliance with Council's Civil works requirements as a part of the public domain augmentation.</p>
14.	<p>Traffic conditions</p> <p>Except where varied by conditions of consent or approval in writing from Council Development Engineers the vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>
15.	<p>Design Alignment levels</p> <p>The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:</p> <ul style="list-style-type: none"> • To be provided in writing by Council's Development Engineering Section following assessment of Civil Works plans for Roma Avenue frontage. <p>The design alignment levels at the property boundary as issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881.</p> <p>The above alignment levels and the site inspection by Council's Development Engineering Section will be issued at a prescribed fee of \$1067 calculated at \$65.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure all driveway & footpath works are designed and constructed in accordance with Council requirements and Australian Standards</p>
16.	<p>Stormwater Management</p> <p><u>Stormwater drainage plans have not been approved as part of this development consent.</u> Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the Principal Certifier. The drawings and details shall include the following information:</p>

Condition	
a)	A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
b)	A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
c)	The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories: <ul style="list-style-type: none">i. Roof areasii. Paved areasiii. Grassed areasiv. Garden areas
e)	Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
f)	Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
g)	The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.

Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.

17. **Council Stormwater Infrastructure**

With the exception of the site discharge pipe, all new pipelines constructed within Council's road reserve shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RRRCP). Prior to backfilling, all pipelines in council's road reserve shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.

Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line.

The written approval of Council is required to be obtained in relation to all drainage and infrastructure works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the *Roads Act 1993*. Detailed plans and specifications of the proposed works are to be submitted to and approved by the Director of City Services prior to commencing any works within the road reserve/public place.

All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a professional engineer is to be provided to Council upon completion of the works.

Relevant Council Assessment and Inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.

Condition

Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.

18. **Stormwater Management**

The site stormwater drainage system is to be provided in accordance with the following requirements;

- a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the *Principal Certifier* and details are to be included in the construction certificate.
- b) The stormwater must be discharged (by gravity) either:
 - i. Directly to the kerb and gutter in front of the subject site in Inglethorpe Avenue or
 - ii. Directly into Council's underground drainage system located in Inglethorpe Avenue via a new kerb inlet pit and section of 375mm pipe to join onto the existing kerb inlet pit in front of No.9 Inglethorpe Avenue; or
 - iii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

NOTES:

- Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the proposed infiltration area, or the ground conditions comprise low permeability soils such as clay.
- If the owner/applicant is able to demonstrate to Council that he/she has been unable to procure a private drainage easement through adjoining premises and the ground conditions preclude the use of an infiltration system, a pump-out system may be permitted to drain the portion of the site that cannot be discharged by gravity to Council's street drainage system in front of the property.

Pump-out systems must be designed by a suitably qualified and experienced hydraulic consultant/engineer in accordance with the conditions of this consent and Council's Private Stormwater Code.

- c) Should stormwater be discharged to Council's street drainage system, an on-site stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a **10% AEP (1 in 10 year)** storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 5% AEP (1 in 20 year) storm is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the Principal Certifier. If discharging to the street gutter the PSD shall be restricted to the above or **25 L/S**, whichever the lesser.

An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an annual

Condition	
	exceedance probability (AEP) of 1% (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1% AEP (1 in 100 year) storm.
d)	<p>Should stormwater be discharged to an infiltration system the following requirements must be met;</p> <p>i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.</p> <p>ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.</p> <p>Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.</p> <p>iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)</p> <p>iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (e.g. a road, laneway or reserve).</p>
e)	<p>Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.</p> <p>Where possible any detention tanks should have an open base to infiltrate stormwater into the ground. Infiltration should not be used if ground water and/or any rock stratum is within 2.0 metres of the base of the tank.</p>
f)	<p>Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1% AEP (1 in 100 year), 2 hour storm assuming both pumps are not working.</p> <p>The pump system must also be designed and installed strictly in accordance with Randwick City Council's Private Stormwater Code.</p>
g)	<p>Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.</p>
h)	<p>A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's</p>

Condition
<p>drainage system and prior to discharging the stormwater to any absorption/infiltration system.</p> <p>Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:</p> <ul style="list-style-type: none"> • The base of the pit being located a minimum 300mm under the invert level of the outlet pipe. • The pit being constructed from cast in-situ concrete, precast concrete or double brick. • A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes. • A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent). • The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system. • A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar). • Provision of a sign adjacent to the pit stating, "This sediment/silt arrestor pit shall be regularly inspected and cleaned". <p><i>Sketch details of a standard sediment/silt arrestor pit may be obtained from Council's Drainage Engineer.</i></p> <p>i) The floor level of all habitable, retail, commercial and storage areas located adjacent to any detention and/or infiltration systems with above ground storage must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be provided.</p> <p><i>(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).</i></p> <p>j) The maximum depth of ponding in any above ground detention areas and/or infiltration systems with above ground storage shall be as follows (as applicable):</p> <ol style="list-style-type: none"> i. 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area) ii. 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10) iii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10 iv. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area v. Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum

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flood level.

Note: Above ground storage of stormwater is not permitted within basement car parks or store rooms.

- k) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- l) A 'V' drain (or equally effective provisions) are to be provided to the perimeter of the property, where necessary, to direct all stormwater to the detention/infiltration area.
- m) Mulch or bark is not to be used in on-site detention areas.
- n) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.
- o) Any onsite detention/infiltration systems shall be located in areas accessible by residents.

Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.

19. **Groundwater/ Site seepage**

An addendum to the submitted geotechnical report by JK Geotechnics must be undertaken from a qualified, experienced Hydrogeological/geotechnical Engineer, which provides longer term monitoring & re-assessment of the monitoring well installed on BH3 (as detailed in the geotechnical report) to better determine the presence of any groundwater/seepage flows. If groundwater is present then report must also investigate the potential impact of groundwater upon the development, prior to issuing a Construction Certificate, to the satisfaction of the Principal Certifier.

Where the site is affected by dry weather seepage/groundwater flows, the development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:

- a) Seepage/ground water and subsoil drainage (from planter boxes etc) must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system
- b) Adequate provision is to be made for the ground water to drain around the basement carpark (to ensure the basement will not dam or slow the movement of the ground water through the development site).
- c) The walls of the basement level/s of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into the basement level/s of the building and the stormwater drainage system for the development.
- d) Sub-soil drainage systems may discharge via infiltration subject to the hydraulic consultant/engineer being satisfied that the site and soil conditions are suitable and the seepage is able to be fully managed within the site, without causing a nuisance to any premises and ensuring that it does not drain or discharge (directly or indirectly) to the street gutter.

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- e) Details of the proposed stormwater drainage system including methods of tanking the basement levels and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced Professional Engineer to the satisfaction of the Principal Certifier and details are to be included in the construction certificate. **A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Principal Certifier.**

Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.

20. **Waste Management**

Waste Management provisions must be implemented in general accordance with the Waste Management Plan submitted with the development application (Prepared by SLR Revision 2 date 16th Sept 2025), subject to the following amendments and requirements:-

- The development shall require a minimum of 5 x 240L bins (comprising 2 garbage bins, 2 recycle bins and 1 FOGO bin)
- Full details of waste contractors and disposal sites for the demolition and construction phase are to be provided
- Bins are to be presented adjacent to the northern edge of the vehicle crossing within the 1m setback of the retaining wall.

The amended WMP is required to be submitted to and approved by Council's Lead specialist Strategic Waste or Development Engineer prior to commencement of any works on the site.

The garbage room shall be sized to contain a total of 5 x 240 litre bins (comprising 2 garbage bins, 2 recycle bins and 1 FOGO bin) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.

The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

Condition Reason: To ensure the development effectively manages its waste during construction and operational phases.

21. **Street Tree Management**

The applicant must submit a payment of **\$5,057.70** (GST inclusive) to cover the following costs:

- a. For Council to remove, stump-grind and dispose of the *Jacaranda mimosifolia* (Jacaranda, T34 in the Arboricultural Impact Assessment Report by Earthscape Horticultural Services, ref 25-023, ver 4 dated 07/11/25, 'the *Arborist Report*') which is located on Council's sloped Ingelthorpe Avenue verge, centrally in front of this development site, in order to accommodate the new vehicle crossing, bin presentation area, retaining wall and associated civil works in this same area as shown.
- b. A loss of amenity fee in recognition that the only reason this established public tree is being removed is to accommodate the development of private property, and as a replacement cannot be provided directly back in this same area due to a lack of available space created by the new driveway, slope of the land and other street trees nearby, this part of the fee will be

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directed towards additional public plantings elsewhere in the street and surrounding area.

- c. For Council to perform clearance pruning of the other *Jacaranda mimosifolia* (Jacaranda, not assessed in the Arborist Report) that is located past the southern site boundary, in front of the neighbouring private property at 1 Ingelthorpe Avenue, where needed to avoid secondary impacts such as damage from trucks, machinery, deliveries and similar, and must be completed prior to the commencement of any works.

This fee must be paid into **Tree Amenity Income** via Council's Customer Service Centre, **prior to a Construction Certificate being issued for the development.**

The applicant must then contact Council's Landscape Development Officer on 9093-6613 (quoting the receipt number) AND GIVING UP TO SIX WEEKS NOTICE to arrange for removal and pruning.

After advising of the receipt number, any further enquiries regarding scheduling/timing or completion of tree works are to be directed to Council's CENTRAL AREA Tree Preservation & Maintenance Coordinator on 9093-6964.

Condition Reason: Management of public tree assets.

22. **Street Tree Protection**

To ensure retention of the *Jacaranda mimosifolia* (Jacaranda, not assessed in the Arborist Report) that is located on Council's public verge, past the southern site boundary, in front of the neighbouring private property at 1 Ingelthorpe Avenue, as well as the mature *Eucalyptus grandis* (Flooded Gum, T33) which is also located on Council's sloped public verge, but to the west of this development site, at the end of the street in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must note them for retention, with the position and diameter of their trunks, canopies, SRZ's, TPZ's and Tree Identification Numbers as taken from *'the Arborist Report'* to be clearly and accurately shown on all plans in relation to the site and new works.
- b. All Construction Certificate plans must show that the temporary shoring wall and re-grading works that are currently indicated for Council's Ingelthorpe Avenue verge, parallel with the front property boundary, as shown on the Ground Floor & Level 1 Shoring Plans, dwg's DA05 – 104 – 105 respectively, will be completely deleted from all plans to no longer form of this application.
- c. All Construction Certificate plans must also show that any external civil works on public property associated with the new vehicle crossing, bin presentation area, retaining wall and similar will be consistent with the Amended Architectural Plans by Cortese Gilder, dwg's DA00.001 – 90.001, rev 01 dated 12/09/25 and stamped by Council 30th April 2026, with distances in millimetres between T33 and any new external civil works to now be shown.
- d. Ground levels on Council's Ingelthorpe Avenue verge, for the area to the north of the new vehicle crossing, must be retained as existing, as undisturbed deep soil, with notations and details confirming compliance to be provided.
- e. All initial excavations along the northern edge of the new external civil works on Council's Ingelthorpe Avenue verge, closest to **T33**, between the kerb and the front property boundary, must be performed by hand, to a minimum depth of 600mm, without damaging any roots in the process.
- f. **Council's Landscape Development Officer (9093-6613) must then be**

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contacted, prior to lowering ground level, forming up, pouring footings or proceeding further with any works specified in point 'e' above, giving at least 5 working days-notice to inspect this trench, with any instructions issued to be complied with.

NOTE: An Occupation Certificate cannot be issued unless Council's Officer confirms this inspection has taken place.

- g. Demolition/removal of existing surfacing and structures, as well as all initial excavations associated with the lowering of ground levels, footings and similar within the 6.5m TPZ radius of **T33** must be undertaken in accordance with **Sections 10.9 -10.10, Recommended Tree Protection Measures**, of the Arborist Report.
- h. Prior to the commencement of any site works, the trunk of **T33** is to be physically protected by wrapping layers of geo-textile, underfelt, carpet, hessian or similar, from ground level to a height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- i. The Jacaranda in front of 1 Ingelthorpe Avenue is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing panels, which shall be located a minimum distance of **1500 mm** to its north and south, matching up with the back of the kerb to its west, and public footpath to its east to completely enclose/exclude this tree for the duration of works.
- j. The protection and fencing described in points 'h-i' above shall be installed prior to the commencement of demolition and construction works and must remain in place until completion, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
- k. If additional trunk or branch protection is required, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around their circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- l. To prevent soil/sediment being washed over the root system of the Jacaranda, erosion control measures must be provided at ground level around the perimeter of its TPZ.
- m. Where roots are encountered which are in direct conflict with the approved external civil works, they may be cut cleanly using only hand-held tools, not machinery, with the affected area to then be backfilled with clean site soil as soon as practically possible.
- n. There is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble around either of their trunks, with all Site Management Plans to comply with these requirements.
- o. The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during works and prior to any Occupation Certificate.
- p. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$5,000.00** must be paid via Council's Customer Service Centre, **prior to a Construction Certificate being issued for the development to**

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ensure compliance with the conditions listed in this consent, and preservation of the trees.
The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form' and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6613).
Any contravention of Council's conditions relating to the trees at any time during works or prior to an Occupation Certificate may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 4.17 (6) of the Environmental Planning and Assessment Act 1979.
Condition Reason: Protection and/or maintenance of existing environment public infrastructure, community assets and significant trees.

23. **Amended Landscape Plan**

The Landscape Plans by Jane Irwin Landscape Architecture, dwg's L-DA-000 – 205, rev C dated 26/09/25 and rev D dated 29/04/26 must be amended further to now include/comply with the following requirements:

- a. The low garden wall that is shown within the rear setback, parallel to the eastern site boundary must be deleted, as this would effectively create a planter box which would restrict the future growth and success of the row of trees that are shown along this same area, as well as cause structural damage, with any tree planting here needing to be provided 'at grade' only, with relevant details confirming compliance to be provided.
- b. Two *Eucalyptus botryoides* (Bangalays) must be provided equally across the width of the rear boundary described in point 'a' above, between the outdoor table and northeast site corner, as direct compensation for the loss of existing large trees to accommodate this development, and can be at the expense of the smaller species that are currently shown in this same area, as suitable.
- c. The 1 x EB that is currently shown right in the southeast site corner must be deleted to comply with the requirements of point 'b' above, as it would not be feasible for this large tree to grow in such a confined space as is currently shown due to being surrounded on all four sides by retaining walls, with an alternative feature tree that would attain smaller dimensions at maturity needing to be selected here.
- d. Similarly, the two *Banksia integrifolia* (Coastal Banksia's) that are currently shown within a narrow, 1400mm wide planter along the southern site boundary must be replaced with an alternative native evergreen species that will attain smaller dimensions at maturity, and are more suitable for the space that is available here.
- e. To provide sufficient soil depth to sustain planting for the life of the development, details must be provided showing that a minimum 300mm soil depth will be provided for groundcovers on slab/over podium, with a minimum of 1000mm soil depth to then be provided where trees are proposed on slab/over podium.
- f. If the applicant seeks improvements/planting on the sloped embankment on Council's Ingelthorpe Avenue verge, adjacent the front property boundary, as is noted on the Landscape Plan – GF & L1, dwg L-DA-101, then the express written consent for this must firstly be obtained from Council's Landscape Development Officer (9093-6613), and may involve the requirement for the applicant to submit a Concept Plan for approval,

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| | detailing full scope of works, erosion controls measures, species selection and similar initiatives, to Council's Officers satisfaction, with this part to be wholly at the applicant's cost. |
| | Condition Reason: To ensure residential amenity and that appropriate landscaping is provided. |
| 24. | <p>Amended Landscape Plan
Written certification from a qualified professional in the Landscape industry (eligible for membership with a nationally recognised organisation/association) must state that the amended scheme submitted for the Construction Certificate complies with the requirements specified above, with both this written statement and plans to then be resubmitted to, and be approved by, the Principal Certifier.</p> <p>Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.</p> |
| 25. | <p>Public Utilities
A <i>Public Utility Impact Assessment</i> must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p> |
| 26. | <p>Undergrounding of Site Power
Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in Inglethorpe Avenue. No Permanent Private Poles are to be installed with all relevant documentation submitted for the construction certificate to reflect these requirements to the satisfaction of the Principal Certifier. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out the works to the requirements and satisfaction of Ausgrid and at no cost to Council.</p> <p>Condition Reason: To minimise the use of private poles in accordance with Council's resolution and protect street amenity.</p> |

BEFORE BUILDING WORK COMMENCES

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| 27. | <p>Building Certification & Associated Requirements
The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <p>a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.</p> <p>b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and</p> |

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- c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the Principal Certifier and Council must be notified accordingly (in writing); and
- d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and
- e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.

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

28. **Dilapidation Reports**

A dilapidation report (incorporating photographs of relevant buildings and structures) must be obtained from a Professional Engineer, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site, and any other property or public land which may be affected by the works, to the satisfaction of the *Principal Certifier* for the development.

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

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

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

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

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

- (a) The *Construction Noise & Vibration Management Plan* must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority *Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline* (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.
- (b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.
- (c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.

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- (d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.

A copy of the Construction Noise & Vibration Management Plan and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.

- (e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.

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

30. **Construction Site Management Plan**

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

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

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.

A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

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

31. **Construction Site Management Plan**

A *Sediment and Erosion Control Plan* must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.

Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

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32.	<p>Public Liability</p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>
33.	<p>Construction Traffic Management</p> <p>An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Inglethorpe Avenue for the duration of the demolition & construction works.</p> <p>The 'Works Zone' must generally have a minimum length of 12m and extend for a minimum duration of three months with any variations to this subject to the endorsement of Council's Transport Engineers. The suitability of the proposed length and duration is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Randwick Traffic Committee.</p> <p>The requirement for a Works Zone may be varied or waived only if it can be demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council's Traffic Engineers) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.</p>
34.	<p>Construction Site Traffic Management Plan</p> <p>A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.</p> <p>The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:</p> <ul style="list-style-type: none">• A description of the demolition, excavation and construction works• A site plan/s showing the site, roads, footpaths, site access points and vehicular movements• Any proposed road and/or footpath closures• Proposed site access locations for personnel, deliveries and materials• Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)• Provision for loading and unloading of goods and materials• Impacts of the work and vehicular movements on the road network, traffic and pedestrians• Proposed hours of construction related activities and vehicular movements to and from the site• Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Maritime Services, Police and State Transit Authority)• Any activities proposed to be located or impact upon Council's road, footways or any public place• Measures to maintain public safety and convenience <p><i>The approved Construction Site Traffic Management Plan must be complied with at</i></p>

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all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.

Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.

35. **External Authorities**

Any necessary approvals must be obtained from NSW Police, Roads & Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.

All conditions and requirements of the NSW Police, Roads & Maritime Services, State Transit Authority and Council must be complied with at all times

Condition Reason: To ensure construction traffic is appropriately managed and that any requirements of relevant external agencies are met.

36. **Public Utilities**

Documentary evidence from the relevant public utility authorities confirming they have agreed to the proposed works and that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any demolition, excavation or building works.

The owner/builders must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other service authorities to adjust, repair or relocate their services as required.

Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.

DURING BUILDING WORK

 Condition

37. **Site Signage**

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

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

The sign must be—

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

This section does not apply in relation to—

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

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

Condition

38. **Restriction on Working Hours**
Building, demolition and associated site works must be carried out in accordance with the following requirements:

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

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

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

39. **Noise & Vibration**
Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies, in accordance with the *Construction Noise & Vibration Management Plan*, prepared for the development and as specified in the conditions of consent.

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

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

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

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

All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

Notes:

Condition

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

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

41. **Public Safety & Site Management**

Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.

If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.

- h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

Condition

- j) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

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

42. **Dust Control**

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

Dust control measures and practices may include:

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

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

43. **Site Accessway**

A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.

Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.

Condition reason: To minimise and prevent damage to public infrastructure.

44. **Excavations and Support of Adjoining Land**

Tin accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 74 of the *Environmental Planning and Assessment Regulation 2021*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.

45. **Complaints Register**

A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.

Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all

	Condition
	<p>complaints shall be investigation, actioned and responded to and documented in a Complaints Register accordingly.</p> <p>Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.</p> <p>Condition reason: To ensure any complaints are documented and recorded, and to protect the amenity of the surrounding area and residents.</p>
46.	<p>Building Encroachments</p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
47.	<p>Survey Report</p> <p>A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:</p> <ul style="list-style-type: none"> • prior to construction (pouring of concrete) of footings for the building and boundary retaining structures, • prior to construction (pouring of concrete) of new floor levels, • prior to issuing an Occupation Certificate, and • as otherwise may be required by the Principal Certifier. <p>The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.</p> <p>Condition Reason: To ensure compliance with approved plans.</p>
48.	<p>Road/Asset Opening Permit</p> <p>Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:</p> <ol style="list-style-type: none"> a) A <i>Road / Asset Opening Permit</i> must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the <i>Roads Act 1993</i> and all of the conditions and requirements contained in the <i>Road / Asset Opening Permit</i> must be complied with. b) Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out. c) Relevant <i>Road / Asset Opening Permit</i> fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place, d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a <i>final occupation certificate</i> or occupation of the development (whichever is sooner). e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.

Condition

- f) Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.
- g) Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.
- h) The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each days activities and upon completion.
- i) The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.
- j) Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.
- k) The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.

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

49. **Traffic Management**

Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.

Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.

50. **External Authorities**

All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.

51. **Tree Management**

Approval is granted for the removal of the following vegetation from within this development site, subject to full implementation of the Amended Landscape Plans:

- a. Just beyond the northwest site corner, on the adjoining Lot 1 (DP1230316), and close to the common boundary, a mature *Banksia integrifolia* (Coastal Banksia, T12 Arboricultural Impact Assessment Report by Earthscape Horticultural Services, ref 25-023, ver 4 dated 07/11/25 'the Arborist Report'), given the major encroachment from the temporary shoring wall and re-grading works that are shown beyond the northern boundary, into this same

Condition	
	area, and can be granted in this case as the applicant is the same owner of both properties.
b.	Within the subject site, towards the southwest corner, an insignificant <i>Cupressus sp.</i> (not identified or assessed in the Arborist Report), given it is a low value exotic species that is directly affected by all aspects of the works.
c.	To its east, centrally within the site, a semi-mature <i>Eucalyptus globulus</i> (Tasmanian Blue Gum, T11 in the Arborist Report), which despite being a relatively rare non-endemic native species, is in poor condition due to a combination of its lean/bias to the northwest, a moderate sized wound and decay, and as the fruiting body of a wood decaying fungus, <i>Phelinus sp.</i> has been observed, means that it will decline and die in the near future, so is not suitable for retention, even irrespective of these works.
d.	To its northeast, at a slightly higher ground level, a mature <i>Banksia integrifolia</i> (Coastal Banksia, T10), which could not be practically or reasonably incorporated into these works as its central location is in direct conflict with all aspects of the footprint.
e.	The same also applies to the other group of smaller, juvenile specimens to the east, being two <i>Callistemon viminalis</i> (Bottlebrush's, T6-7) and two, 7-12m tall <i>Corymbia maculata</i> (Spotted Gums, T8-9), which are all insignificant.
f.	Further to the east again, across the width of the rear boundary, in the open grassed area, two co-joined <i>Cinnamomum camphora</i> (Camphor Laurels), comprising from north to south, T4 (which is the larger and more dominant of the two), and T5 which has been suppressed by the more dominant T4, as the significant excavations, lowering of existing ground levels and construction of perimeter retaining walls and associated works that are needed to maximise accessibility and usability of the private open space by delivering a level area of lawn means their retention is not feasible, with this species also known as being problematic due to their large size and invasive and aggressive root system, and are also regarded as a low value, environmental weed.
	Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.

52. **Stormwater Drainage**

Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the Principal Certifier.

The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

Condition Reason: To control and manage stormwater run-off during excavation/construction so as not to adversely impact neighbouring properties and Council's stormwater assets.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

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

	Condition
	<p><i>Safety) Regulation 2021.</i></p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
54.	<p>BASIX Requirements</p> <p>In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
55.	<p>Post-construction Dilapidation Report</p> <p>A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.</p> <p>The dilapidation report shall detail whether:</p> <ul style="list-style-type: none">(a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and(b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent. <p>The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.</p> <p>Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>
56.	<p>Fire Safety Certificate</p> <p>A single and complete <i>Fire Safety Certificate</i>, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire and Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
57.	<p>Structural Certification</p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of</p>

Condition

Australia and approved design documentation, to the satisfaction of the *Principal Certifier*. A copy of which is to be provided to Council.

Condition Reason: To ensure the structural adequacy of the building and works.

58. **Sydney Water Certification**

A *section 73 Compliance Certificate*, under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > *Building and developing* > *Developing your Land* > *Water Servicing Coordinator* or telephone 13 20 92.

Please make early contact with the Water Servicing Coordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.

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

59. **Noise Control Requirements & Certification**

The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority (EPA) Noise Policy for Industry and Council's development consent.

A copy of the report must be provided to the *Principal Certifier* and Council prior to an occupation certificate being issued.

Condition Reason: To protect the amenity of the surrounding area and residents.

60. **Street and/or Sub-Address Numbering**

Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.

Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.

Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.

61. **Council's Infrastructure, Vehicular Crossings & Road Openings**

The owner/developer must meet the full cost for a Council approved contractor to:

Condition	
a)	Excavate Council verge & construct a full width concrete heavy duty vehicular crossing and layback at kerb opposite the vehicular entrance to the premises to Council's specifications and requirements
b)	Construct new retaining walls parallel and setback (for bin presentation area) to northern edge of new vehicle crossing as required to Council's specifications and requirements.
c)	Construct a 1.3m or wide concrete footpath along the site frontage as far as the northern edge of driveway. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.
	NOTE: If required, a minimum of two steps must be installed opposite southern boundary of site on the new Council footpath for pedestrian safety.

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

Civil Works

62. Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.

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

Civil Works

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

- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
- b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

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

	Condition
	<p>Survey Infrastructure – Restoration Where a Surveyor-General's Approval for Survey Mark Removal has been granted by NSW Spatial Services, documentary evidence of restoration of the removed survey mark must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council prior to the issue of an occupation certificate.</p>
64.	<p>The documentary evidence is to consist of a letter Signed by a Registered Land Surveyor confirming that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal under condition "Survey Infrastructure – Identification and Recovery" have been complied with.</p> <p>Condition Reason: To ensure the development satisfies requirements with regards to the Preservation of Survey Infrastructure (POSI) under Section 24 of the Surveying and Spatial Information Act 2002.</p>
	<p>Sydney Water A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).</p>
65.	<p>Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements with regards to any upgrade/adjustment of Sydney Water's assets.</p>
66.	<p>Carparking The proposed carpark shall be finished in a manner fit for its intended use. The car spaces shall be formalised with line-marking and numbering/labelling with such works completed prior to occupation of the development.</p> <p>Condition Reason: To ensure the completed carpark is fit for purpose and ready for occupation.</p>
67.	<p>Undergrounding of Power The Principal Certifier shall ensure that power supply to the completed development has been provided as an underground (UGOH) connection from the nearest mains distribution pole in Inglethorpe Avenue street. All work is to be to the requirements and satisfaction of Ausgrid and at no cost to Council.</p> <p>NOTE: Any private poles must be removed prior to the issuing of an occupation certificate.</p> <p>Condition Reason: To minimise the use of private poles in accordance with Council's resolution and protect street amenity.</p>
68.	<p>Stormwater Drainage A "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the onsite detention/infiltration system is maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.</p>

Condition

Notes:

- a. The “restriction on the use of land” and “positive covenant” are to be to the satisfaction of Council. A copy of Council’s standard wording/layout for the restriction and positive covenant may be obtained from Council’s Development Engineer.
- b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the “restriction on the use of land” and “positive covenant” being executed by Council.
- c. Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.

Condition Reason: To ensure stormwater run-off is effectively managed for the life of the development.

69. **Stormwater Drainage**

A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):

- Finished site contours at 0.2 metre intervals;
- The location of any detention basins/tanks with finished surface/invert levels;
- Confirmation that orifice plate/s have been installed and orifice size/s (if applicable);
- Volume of storage available in any detention areas;
- The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
- Details of any infiltration/absorption systems; and
- Details of any pumping systems installed (including wet well volumes).

Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council’s stormwater assets.

70. **Stormwater Drainage**

The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and conditions of this development consent.

The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the Principal Certifier.

Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council’s stormwater assets.

71. **Groundwater Management**

The applicant shall submit to the Principal Certifier and Council certification from a suitably qualified and experienced professional engineer, confirming that any required sub-soil drainage and groundwater management systems have been provided in accordance with the conditions of this consent. There must be no dry weather seepage/groundwater flows discharging to Council’s street gutter or

Condition	
	underground drainage system
	Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.
72.	<p>Landscape Certification</p> <p>Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the AMENDED Landscape Plans by Jane Irwin Landscape Architecture, dwg's L-DA-000 – 205, rev C dated 26/09/25, and rev D dated 29/04/26, and any relevant conditions of consent, with strategies to be implemented to ensure the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.</p> <p>Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.</p>
73.	<p>Tree Protection Certification</p> <p>Prior to any Occupation Certificate, written certification must firstly be obtained from Council's Senior Landscape Development Officer (9093-6613) confirming that the requirement for a site inspection of hand dug trenches over the Ingelthorpe Avenue verge, for the northern edge of the new vehicle crossing and associated civil works was performed, as is required by the 'Street Tree Protection' condition, with any other instructions issued on-site also having been complied with during the course of works.</p> <p>Condition Reason: To demonstrate that the requirements of the Tree Protection conditions were complied with during works.</p>
74.	<p>Landscaping</p> <p>The nature-strip upon Council's footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.</p> <p>Condition Reason: To ensure that community assets are presented in accordance with reasonable community expectations.</p>
75.	<p>Waste Management</p> <p>Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.</p> <p>The waste storage areas shall be clearly signposted.</p> <p>Condition Reason: To ensure adequate waste management for the life of the development.</p>

OCCUPATION AND ONGOING USE

Condition	
76.	<p>Use of parking spaces</p> <p>The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>

Condition	
77.	<p>Fire Safety Statement</p> <p>A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i>, and in accordance with the <i>Fire Safety Schedule</i> for the building.</p> <p>The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i>.</p> <p>A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
78.	<p>External Lighting</p> <p>External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
79.	<p>Stormwater Detention/Infiltration System</p> <p>The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.</p> <p>Condition Reason: To ensure the operational management of onsite infrastructure.</p>
80.	<p>Use of the Development</p> <p>The development must be used exclusively as residential accommodation ancillary to the existing Place of Public Worship (Sacred Heart Monastery) at 1 Roma Avenue, Kensington. The building shall not be sold, leased, or subdivided for use as an independent or separate dwelling.</p> <p>Condition reason: To ensure the development is used for its intended purpose.</p>
81.	<p>Use of the Development</p> <p>The individual "sitting rooms" within the development are not to contain any kitchen or cooking facilities. The development must be used as a single residential dwelling and the rooms must not be used as separate dwellings or domiciles.</p> <p>Condition reason: To ensure the development is used for its intended purpose.</p>

**DEMOLITION WORK
BEFORE DEMOLITION WORK COMMENCES**

Condition	
82.	<p>Demolition Work</p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <ul style="list-style-type: none"> a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.

Condition
<p>b) The Demolition Work Plan must include the following details (as applicable):</p> <ul style="list-style-type: none"> • The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor • Details of hazardous materials in the building (including materials containing asbestos) • Method/s of demolition (including removal of any hazardous materials including materials containing asbestos) • Measures and processes to be implemented to ensure the health & safety of workers and community • Measures to be implemented to minimise any airborne dust and asbestos • Methods and location of disposal of any hazardous materials (including asbestos) • Other measures to be implemented to ensure public health and safety • Date the demolition works will commence/finish. <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.</p> <p><i>Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

DURING DEMOLITION WORK

Condition
<p>83. Demolition Work and Removal of Asbestos Materials</p> <p>Demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a <i>demolition work plan</i>, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul style="list-style-type: none"> • A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro), • Asbestos waste must be disposed of in accordance with the <i>Protection of the Environment Operations Act 1997</i> and relevant Regulations • A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",

Condition

- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works,
- Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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

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

D35/26

Development Application Report No. D36/26

Subject: 68 Denning Street, South Coogee (DA/171/2026)

Executive Summary

Proposal:	Alterations and additions to the existing dwelling house including internal reconfiguration and level changes; installation of internal stairs, lift and garage access; entry modifications; extension of the first-floor balcony; new roof overhang, skylights and glazing; demolition and reconstruction of the entry, external stairs and bin store; removal of the rear balcony and vergola; new awnings, rear patio and shed; swimming pool, outdoor shower and built-in barbecue and associated landscaping works.
Ward:	East Ward
Applicant:	RFT Consultancy Pty Limited
Owner:	Ms M R Pilcher and Mrs M J Pilcher
Cost of works:	\$1,179,018.02
Reason for referral:	Exceed the development standard for Height of Buildings by more than 10%

Recommendation

- A. That the RLPP is satisfied that the Applicant's written requests to vary the development standard relating to Height of Buildings in Clauses 4.3 of Randwick Local Environmental Plan 2012 have demonstrated that:
- Compliance with the relevant development standard is unreasonable and unnecessary in the circumstances of the case; and
 - There are sufficient environmental planning grounds to justify the contravention of the relevant development standard.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/171/2026 for alterations and additions to the existing dwelling house including internal reconfiguration and level changes; installation of internal stairs, lift and garage access; entry modifications; extension of the first-floor balcony; new roof overhang, skylights and glazing; demolition and reconstruction of the entry, external stairs and bin store; removal of the rear balcony and pergola; new awnings, rear patio and shed; swimming pool, outdoor shower and built-in barbecue and associated landscaping works., at No. 68 Denning Street, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-  RLPP Dev Consent Conditions - DA/171/2026 - 68 Denning Street, South Coogee

D36/26



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the proposal exceeds the maximum building height development standard by more than 10%, with a maximum variation of 13.5% above the 9.5 metre height limit prescribed under the Randwick Local Environmental Plan (LEP) 2012. Importantly, the overall building height will remain unchanged and the variation relates only to specific architectural elements proposed for replacement.

Development consent is sought for alterations and additions to the existing dwelling including internal reconfiguration and level changes; installation of internal stairs, a lift and garage access; modifications to the entry; extension of the first-floor balcony; new roof overhang, skylights and glazing; demolition and reconstruction of the entry, external stairs and bin store; removal of the rear balcony and pergola; new awnings, rear patio and shed; a swimming pool, outdoor shower and built-in barbecue; and associated landscaping works.

The application was advertised and notified in accordance with the Randwick City Community Engagement Strategy. No submissions were received during the notification period.

The key issues relate to non-compliance with the building height development standard under Clause 4.3 of the Randwick LEP 2012 and the accompanying Clause 4.6 Variation Request, which seeks to justify the exceedance.

The proposal maintains the low-density residential character of the locality and is generally consistent with the bulk and scale of development anticipated and existing in the surrounding area. It aligns with the objectives of the R2 Low Density Residential zone and, subject to conditions, will not result in any significant adverse amenity impacts on neighbouring properties.

The Applicant's Clause 4.6 Variation Request is considered well-founded. The overall bulk, scale and built form remain compatible with the immediate streetscape, and the proposed height exceedances will not result in unreasonable amenity impacts on adjoining or nearby properties. The non-compliance arises from the replacement of existing architectural features—specifically the first-floor balustrade and cupola windows—located above the 9.5-metre height limit. As the proposal does not increase the existing maximum building height, the extent of variation is considered minor in nature.

Approval of the development application is recommended, subject to the conditions of consent outlined in this report.

2. Site Description and Locality

The subject site is identified as Lot 2 in Deposited Plan 19196 and is known as No. 68 Denning Street, South Coogee. It is located on the western side of Denning Street, east of Malabar Road.

The site comprises a rectangular allotment with a frontage of 10.058 metres to Denning Street, northern and southern side boundaries of 38.10 metres, and a rear western boundary of 10.058 metres, resulting in a total site area of 383.2m². The landform is significantly sloped, with an approximate 6-metre fall from the rear boundary down to the Denning Street frontage.

The land is zoned R2 Low Density Residential. The site is currently occupied by a multi-storey detached dwelling presenting as three storeys to the street (refer to **Figures 1 to 7**). Landscaping, including lawn and planting, is provided at both the front and rear of the property. Vehicular and pedestrian access is obtained from Denning Street within the front setback.

The surrounding locality is characterised by similar multi-storey detached dwellings, many of which take advantage of panoramic views toward the Pacific Ocean and the prominent local landmark, Wedding Cake Island.

The site is not identified as a heritage item and is not located within a Heritage Conservation Area.



Figure 1: Streetscape view of subject site at 68 Denning Street, South Coogee

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Figure 2: Southward view of adjacent dwellings along Denning Street



Figure 3: Balustrade proposed for replacement – area of height limit exceedance



Figure 4: Cupola proposed for replacement – area of height limit exceedance



Figure 5: View from rear setback towards first floor rear facing balcony proposed to be squared off

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Figure 6: View of rear setback proposed to accommodate landscaping and an inground swimming pool



Figure 7: View of dwelling street entry

3. Relevant history

There are no previous or historical applications on record that are directly relevant to the current proposal.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing dwelling, including internal reconfiguration and level changes; installation of internal stairs, a lift and garage access; modifications to the entry; extension of the first-floor balcony; construction of a new roof overhang, skylights and glazing; demolition and reconstruction of the entry, external stairs and bin store; removal of the rear balcony and pergola; installation of new awnings, a rear patio and shed; and the addition of a swimming pool, outdoor shower, built-in barbecue and associated landscaping works.

Specifically, the proposal is seeking consent for:

Basement Level

- Replacement of garage door.
- Internal reconfiguration to accommodate new internal stairs and lift.

Entry Level

- Realignment of main entry.
- Internal reconfiguration to allow for new internal stairs and lift.
- Entry to proposed new lift.
- New storage room adjacent to new lift
- New guest/home office room with ensuite including squaring off of front corner

Ground Floor

- Internal reconfiguration to allow for new internal stairs and lift.
- Internal reconfiguration to accommodate dining and kitchen and dining and family room.
- Demolition of existing staircase to first floor level and construction of new staircase to first floor.
- New laundry and bathroom.
- New planter box to terrace.

First Floor

- Internal reconfiguration to allow for new internal stairs
- General reconfiguration of existing floor area including:
 - Master bedroom including walk in wardrobe and ensuite bathroom
 - Bedroom one including ensuite bathroom
 - New bedroom one and two
 - New parents' retreat
- Squaring off front balcony to allow for minor increase (Area of height exceedance)
- Demolition of existing roof overhang and provision of new 'square' roof overhang
- New skylights above stairwell and ensuite
- New glazing to existing opening to front (Area of height exceedance)

External Works

- Demolition of covered entry at street frontage and construction of new front wall set in from boundary
- Demolition and reconstruction of external stair from garage level to entry
- Demolition of bin store and construction of new bin store
- Existing openings at ground floor front terrace to be infilled
- Deletion of rear balcony
- Demolition of front pergola structure and new projected awning at ground level
- New awning at first floor level to front terrace
- New patio at rear
- New shed sited at rear along southern boundary

- New planter boxes within front setback at entry
- New swimming pool
- Outdoor shower
- Inbuilt barbeque sited along northern boundary

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. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Building Sustainability Index: BASIX) 2004.

6.2. SEPP (Biodiversity and Conservation) 2021

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

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

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

6.3. 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 purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving alterations and additions to a dwelling) are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

The site is zoned Residential R2 Low Density Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.75:1	0.69:1	Yes
CI 4.3: Building height (max)	9.5m	Existing maximum building height = 13.45m	No but same height as existing
		First floor balustrade replacement = 9.83m	No
		Replacement of curved cupola windows = 10.79m	No

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6.4.1. *Clause 4.6 - Exceptions to development standards*

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

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.3: Building height (max)	9.5m	Replacement balustrade = 9.83m	0.33m	3.41%
		Replacement cupola windows = 10.79m	1.29m	13.57%

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 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 Height of Buildings development standard (CI 4.3)

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

1. Has the Applicant's written request adequately 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 9.5m maximum height of buildings (Clause 4.3) development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

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

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

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

The Applicant addresses the objectives as follows:

Clause 4.3 (1) (a) to ensure that the size and scale of development is compatible with the desired future character of the locality,

The proposal for alterations and additions to existing dwelling will lead to a size and scale of development that is compatible with the desired future character of the locality, which primarily seeks to deliver a low-density residential environment.

The portion of the proposed that breaches the height non-compliance is limited to the replacement glass balustrade and the replacement clerestory windows. These elements sit below the existing maximum height of the roof. The height breach is a consequence of the ground level immediately below at basement level.

These elements contribute to the visual improvement of the building facades. The proposed design will incorporate the use of materials and colours that will suitably match the surrounding developments and will incorporate appropriate fenestration and articulation to limit visual bulk and maintain an appropriate scale.

Each of these elements are setback from the streetscape and will not overwhelm the overall design and presentation of the dwelling and fit in with the stepped effect of the dwelling.

Clause 4.3(1) (b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,

The site is not within a heritage conservation area and contains no heritage items. The site is not proximate to any heritage conservation areas or heritage items. As such, objective (b) is not applicable to the development on site. Nevertheless, and as discussed in the response to objective (a) above, the proposal is of size and scale that is consistent with other dwellings in the immediate vicinity.

Clause 4.3(1) (c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The elements which are proposed above the height standard will not adversely impact on the amenity of adjoining and neighbouring land.

The replacement balustrade and replacement windows will not result in the loss of privacy, additional visual bulk, overshadowing or obstruction of views, given their location and dimensions.

Compliance with the development standard is unreasonable and unnecessary as despite these elements breaching the height standard, the proposed form and scale and is compatible with surrounding development and the desired future character for the locality.

Assessing officer's comment: The Applicant's written justification adequately demonstrates that the objectives of the height standard are largely satisfied. As illustrated in **Figure 8**, the extent of non-compliance is confined to minor architectural features positioned below the existing maximum building height. These features are integrated into the existing structure, are appropriately set back from boundaries, and do not contribute to any perceivable increase in bulk or scale when viewed from the public domain or adjoining properties.

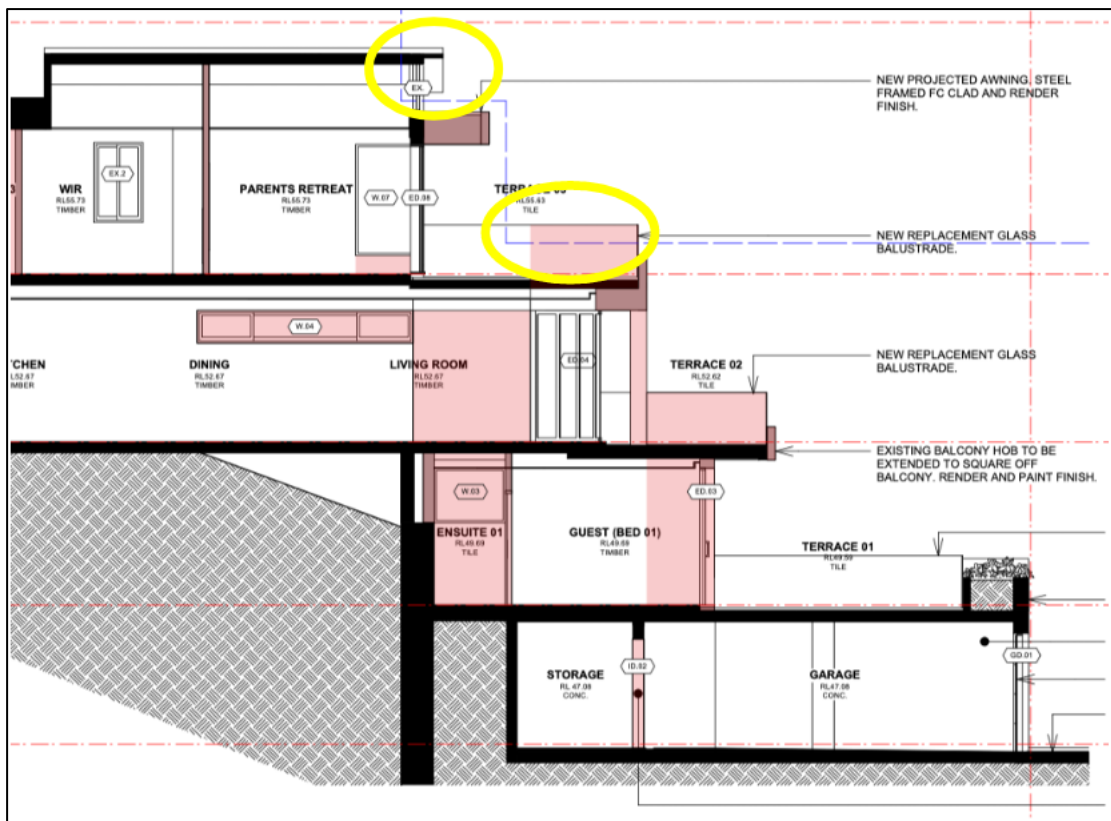


Figure 8: Extract of Section CC illustrating extent of non-compliance with circled areas representative of balustrade and windows proposed for replacement.

The non-compliant components are minor in nature, not visually prominent, and do not give rise to any unacceptable environmental or amenity impacts. The variation is therefore consistent with the objectives of Clause 4.3 and the broader planning intent of the R2 Low Density Residential zone.

The Clause 4.6 request demonstrates that strict adherence to the height standard would impose an unnecessary constraint without delivering any additional planning benefit.

Accordingly, the proposed variation is supported.

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

The Applicant's written request seeks to justify the contravention of the 9.5m maximum height of buildings (Clause 4.3) development standard by demonstrating there are sufficient environmental planning grounds to justify contravening the height of buildings development standard as follows:

The components proposed above the height control are:

- *Replacement glass balustrade to front first floor balcony: 9.83m (3.41%)*
- *Replacement windows to front of existing cupola: 10.79m (13.57%)*

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

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

- *Overall, the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality with the breach in height limit as a consequence of this proposal limited to the replacement balustrade.*
- *Exceedance of the height control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:*

o The elements proposed above the height standard will not result in the loss of views from surrounding development given their location.

o The elements proposed above the height standard will not result in unreasonable overshadowing of adjoining properties given their location.

o The elements proposed above the height standard will not affect the visual and acoustic privacy of adjoining properties; and

o Despite the elements above the height standard, the proposal will provide a development, which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality.

- *The proposed elements above the height standard will be set below the existing dwelling's ridgeline with the non-compliance a consequence of the ground level immediately below, being the existing basement.*

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

Assessing officer's comment: The Applicant's Clause 4.6 written request has been reviewed and is considered to provide sufficient and well-founded environmental planning grounds to justify the proposed variation to the Height of Buildings development standard.

The minor exceedance of the 9.5-metre maximum height under Clause 4.3 arises from site-specific constraints – most notably the steeply stepped topography – rather than from any attempt to increase the overall scale or massing of the dwelling. The non-compliant elements are confined to small architectural features associated with the replacement of existing components and do not contribute to any perceivable increase in building bulk.

The development exhibits a high standard of architectural design, improves the presentation of the dwelling to the streetscape, and remains compatible with the established and emerging character of the surrounding residential area. Importantly, the elements that exceed the height limit do not generate unreasonable overshadowing, privacy impacts, or view loss for adjoining properties. Their scale, location and integration within the existing built form ensure that the amenity of neighbouring land is preserved.

The proposal also aligns with the relevant objectives of the Randwick Local Environmental Plan 2012, the R2 Low Density Residential zone, and the broader intent of the Environmental Planning and Assessment Act 1979, which seeks to facilitate orderly development that maintains residential

amenity and contributes positively to the built environment. In this context, strict compliance with the height standard would impose an unnecessary constraint without delivering any additional environmental or amenity benefit.

On balance, the variation is considered reasonable, well-justified and consistent with the strategic planning framework. The Applicant’s Clause 4.6 request satisfactorily demonstrates that there are sufficient environmental planning grounds to support contravention of the Height of Buildings development standard in this instance.

In conclusion, the Applicant’s written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the height of buildings development standard.

Conclusion

On the basis of the above assessment, it is considered that the requirements of clause 4.6(3) have been satisfied and that development consent may be granted for development that contravenes the 9.5m maximum height of buildings (Clause 4.3) 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.

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

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

9. Environmental Assessment

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

Section 4.15 ‘Matters for Consideration’	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(iii) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant residential character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Side Setbacks – Section 3.3.2 of DCP

The relevant control for minimum dimensions for side setbacks under Section 3.3.2 is as follows:

Minimum side setbacks			
Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m
Less than 6m	<i>Merit assessment</i>		
6m to less than 9m	0.9m	0.9m	0.9m + (building height – 7m)
9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	1.5m + 2 x (building height – 7m)
12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	1.8m + 2 x (building height – 7m)

The proposed side setback dimensions are below:

- Building height >7m = Setback 1.1m North & 1.05m South

Part C1, Section 3.3 details the objectives in relation to setbacks, the objectives are as follows:

- *To maintain or establish a consistent rhythm of street setbacks and front gardens that contributes to the character of the neighbourhood*
- *To ensure the form and massing of development complements and enhances the streetscape character and maintains a two storey street frontage*
- *To ensure adequate separation between neighbouring buildings for visual and acoustic privacy and solar access*
- *To reserve adequate areas for the retention or creation of private open space and deep soil planting*
- *To enable a reasonable level of view sharing between a development and the neighbouring dwellings and the public domain.*

At heights exceeding 7 metres, the proposal achieves a 1.1-metre setback to the northern boundary and a 1.05-metre setback to the southern boundary. The minor departures from the numerical control occur only at the uppermost portions of the dwelling and are limited to non-habitable architectural elements such as the roof parapet. These components do not contribute meaningful bulk or massing and do not alter the perceived scale of the building when viewed from neighbouring properties or the public domain.

The majority of the dwelling below the height plane complies with the minimum side setback requirements. The extent of the encroachments is illustrated in **Figure 9**, which shows that the variations are localised and do not extend along the full length of the building.

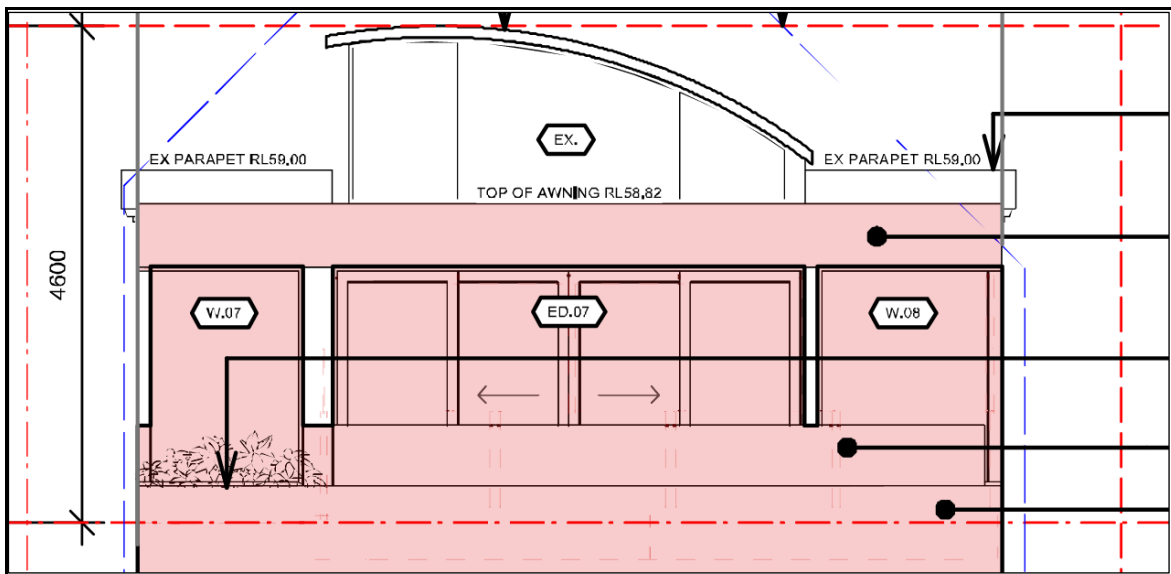


Figure 9: Extract of east elevation illustrating portioned non-compliance with side setback controls. Dashed blue line indicative of minimum required setback.

The proposal continues to satisfy the objectives of the setback controls for the following reasons:

- **Neighbourhood character:** The immediate locality contains similarly shaped allotments with comparable side setbacks. The proposed setbacks are consistent with the prevailing pattern of development and do not disrupt the established rhythm of building separation.
- **Built Form and Streetscape:** The minor encroachments occur at upper-level architectural features and do not contribute to additional visual bulk. The dwelling maintains an appropriate scale and presents as a well-proportioned built form within the streetscape.
- **Amenity and Privacy:** The encroachments do not result in unreasonable overshadowing, loss of privacy, or acoustic impacts. As discussed in the solar access section of this report,

a fully compliant side setback would not materially improve solar access outcomes for neighbouring properties.

- **Site Constraints and Topography:** The site's steep topography necessitates a stepped building form. The minor variations respond to these physical constraints while maintaining sympathetic relationships to adjoining boundaries and dwellings.
- **Open Space and Landscaping:** Adequate deep soil areas and private open space are retained, ensuring sufficient landscaping opportunities and outdoor amenity for occupants.

The minor non-compliances with the side setback controls are modest, localised, and primarily the result of site-specific topographical constraints rather than poor design. The proposal maintains appropriate building separation, protects neighbouring amenity, and remains consistent with the desired future character of the area.

The objectives of Part C1, Section 3.3 are satisfied, and the proposed variations are considered reasonable, acceptable, and capable of support.

10. Conclusion

That the application proposing alterations and additions to the existing dwelling house including internal reconfiguration and level changes; installation of internal stairs, lift and garage access; entry modifications; extension of the first-floor balcony; new roof overhang, skylights and glazing; demolition and reconstruction of the entry, external stairs and bin store; removal of the rear balcony and pergola; new awnings, rear patio and shed; swimming pool, outdoor shower and built-in barbecue and associated landscaping works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives of the Randwick Local Environmental Plan 2012 (RLEP 2012) and satisfies the relevant provisions of the Randwick Development Control Plan 2013 (RDCP 2013). The development maintains an appropriate scale, form and intensity for a low-density residential area and does not introduce any land-use conflicts or adverse environmental impacts.
- The proposal aligns with the objectives of the R2 Low Density Residential zone, as it continues to provide for the housing needs of the community while enhancing the aesthetic quality of the existing dwelling. The works improve the livability and functionality of the home without compromising the amenity, privacy or environmental quality enjoyed by neighbouring residents.
- The scale, massing and architectural design of the proposal are suitable for the site and compatible with the desired future character of the locality. The alterations and additions integrate well with the existing built form, respond appropriately to the site's topography, and maintain a coherent relationship with surrounding dwellings in terms of height, setbacks and visual presentation.
- The proposal supports the ongoing residential use of the premises and enhances internal amenity for occupants, including improved accessibility, circulation and outdoor living opportunities. These improvements are achieved without generating unreasonable impacts on adjoining properties in relation to privacy, overshadowing, view sharing or visual bulk.
- The development represents a positive design outcome, replacing outdated elements with contemporary, high-quality architectural features that contribute to a more attractive and cohesive streetscape. The proposal also improves environmental performance through better building articulation, increased natural light penetration and opportunities for enhanced ventilation.
- The proposal responds appropriately to site constraints, including the steep topography, by adopting a design that minimises excavation, avoids unnecessary bulk, and respects the established pattern of development. The built form remains well-modulated and does not present as visually dominant when viewed from the public domain or neighbouring properties.

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- Adequate landscaping, deep soil zones and private open space are retained, ensuring that the development continues to support urban greening, stormwater infiltration and high-quality outdoor amenity for occupants.
- The proposal represents orderly and economic development of the land, consistent with the principles of the Environmental Planning and Assessment Act 1979. It optimises the use of existing residential land while maintaining environmental quality and protecting the amenity of the surrounding community.
-

Appendix 1: Referrals

1. Internal referral comments:

1.1. Landscape Development Officer

Landscape Comments

Inspection was undertaken on Thursday 5th March 2026 through google street view and near map aerial photography with photos of all vegetation found at D06027430.

Small Olive tree plotted adjacent frontage gate, must need protection against deliveries and such, protection fencing and a bond will be applied within this report.

Southern frontage dwelling has an array of small insignificant vegetation throughout some small, tiered planter boxes, all in direct conflict with works, not significant enough to retain, all can be removed, moving above front garage, some Buxus hedges along eastern and northern existing planters, shrubs can be removed and replaced if needed.

Moving within rear of property, within surrounds of northern, western and southern common boundaries, some small insignificant trees and shrubs, all can be removed as in direct conflict with works, northern neighbouring property surrounds the subject site from north to west in a dog legged shape, vegetation from this neighbouring dwelling protrude within subject site, conditions within this report will be applied for pruning to be applied to protect from physical and mechanical damage.

Adding to this neighbouring vegetation, there are some sizable Gum species which may have SRZ protrude within subject site, which may also protrude within pool excavation area, root mapping will be applied within this report to ensure roots from these species are protected from any injuries

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

1.2. Development Engineer

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

This report is based on the following plans and documentation:

- Architectural Plans by Stirling and Andie REV A dated 15/12/2025;
- Statement of Environmental Effects by AP Square Planning dated 2/2026;
- Detail & Level Survey by DA Surveys dated 10/10/2024;

Undergrounding of power lines to site

The subject site already has a Private Pole installed

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

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**68 Denning Street, South Coogee****REQUEST FOR VARIATION TO HEIGHT OF BUILDINGS
DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF
Randwick LEP 2012**

This Clause 4.6 variation relates to a proposal for a proposal to carry out alterations and additions to an existing three storey dwelling.

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

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

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

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

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

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Zoning of the site

The zoning of the land is R2 Low Density Residential. The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

Clause 4.3 – Building Height

The Standard

Clause 4.3 of the RLEP and the associated map prescribe a maximum building height of 9.5 metres for this site.

The existing building height is 10.94m and this is not proposed to be altered. However, the provision of replacement balustrade to the first-floor balcony will have a height of 9.83m above existing ground level. This portion, despite not being higher than the highest point of the dwelling, does not comply with the height control.

The replacement balustrade for the first-floor balcony at 9.83m provides a non-compliance of 330mm and a percentage variation of 3.41%.

The proposal also seeks to replace the clerestory windows part of the existing cupola. There will be no change to the existing cupola and will involve the reinstatement of the existing glazing only. The replacement windows are at maximum a height of 10.79m and provide a non-compliance of 1.29m and a percentage variation of 13.57%.

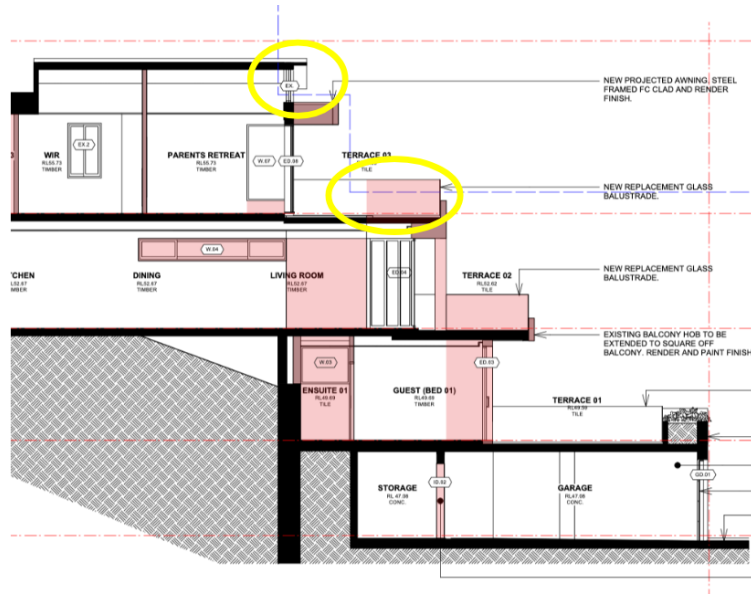


Figure 1: Extract Section CC showing component of non-complying height breach (circled in yellow)

The objectives of Clause 4.3

The objectives of Clause 4.3 are as follows:

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

Clause 4.6 - Exceptions to Development Standards

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Comment: The proposal for alterations and additions to existing dwelling will lead to a size and scale of development that is compatible with the desired future character of the locality, which primarily seeks to deliver a low density residential environment.

The portion of the proposed that breaches the height non-compliance is limited to the replacement glass balustrade and the replacement clerestory windows. These elements sit below the existing maximum height of the roof.

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

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

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

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

The height breach is a consequence of the ground level immediately below at basement level.

These elements contribute to the visual improvement of the building facades. The proposed design will incorporate the use of materials and colours that will suitably match the surrounding developments and will incorporate appropriate fenestration and articulation to limit visual bulk and maintain an appropriate scale.

Each of these elements are setback from the streetscape and will not overwhelm the overall design and presentation of the dwelling and fit in with the stepped effect of the dwelling.

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

Comment: The site is not within a heritage conservation area and contains no heritage items. The site is not proximate to any heritage conservation areas or heritage items. As such, objective (b) is not applicable to the development on site. Nevertheless, and as discussed in the response to objective (a) above, the proposal is of size and scale that is consistent with other dwellings in the immediate vicinity.

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

Comment: The elements which are proposed above the height standard will not adversely impact on the amenity of adjoining and neighbouring land.

The replacement balustrade and replacement windows will not result in the loss of privacy, additional visual bulk, overshadowing or obstruction of views, given their location and dimensions.

Compliance with the development standard is unreasonable and unnecessary as despite these elements breaching the height standard, the proposed form and scale and is compatible with surrounding development and the desired future character for the locality.

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

The components proposed above the height control are:

- Replacement glass balustrade to front first floor balcony: 9.83m (3.41%)
- Replacement windows to front of existing cupola: 10.79m (13.57%)

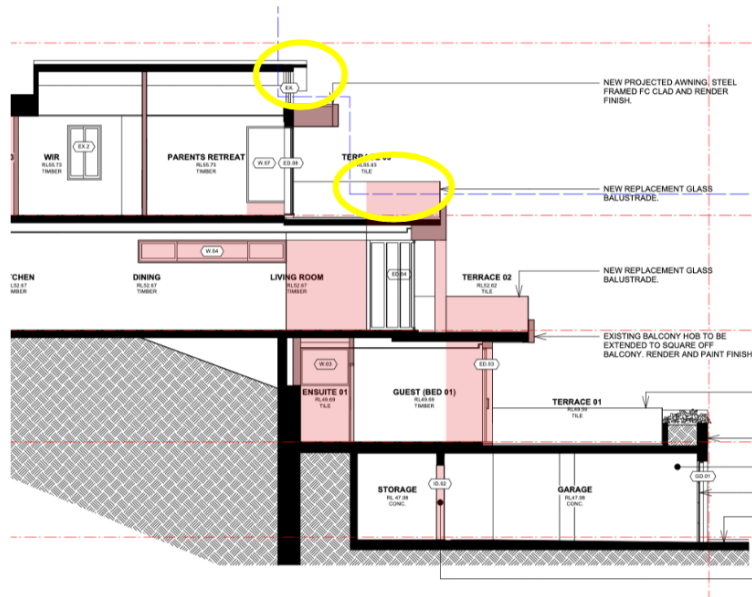


Figure 2: Extract Section CC showing component of non-complying height breach (circled in yellow)

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

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

- Overall, the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality with the breach in height limit as a consequence of this proposal limited to the replacement balustrade.

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

- Exceedance of the height control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:
 - The elements proposed above the height standard will not result in the loss of views from surrounding development given their location.
 - The elements proposed above the height standard will not result in unreasonable overshadowing of adjoining properties given their location.
 - The elements proposed above the height standard will not affect the visual and acoustic privacy of adjoining properties; and
 - Despite the elements above the height standard, the proposal will provide a development, which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality.
- The proposed elements above the height standard will be set below the existing dwelling's ridgeline with the non-compliance a consequence of the ground level immediately below, being the existing basement.

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

3. Clause 4.6(5)

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

Conclusion

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

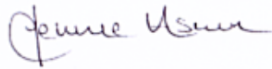
This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard

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would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

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

Jennie Askin



Director
aSquare Planning Pty Ltd

22 January 2026


Appendix 3: DCP Compliance Table

Part C1: Low Density Residential (2023)

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 383.2m ²	
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)	Proposed m ² = 210.76m ² Proposed % = 55%	Yes
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces *Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed between the pair of dwellings.	Site coverage increase does not exceed 10%, As such the numerical control does not apply. It is noted there is a deep soil shortfall within the front setback, however this is existing, and the proposal is deemed to not be contributory to this shortfall. A net improvement on the site's overall deep soil/permeable surface area is demonstrated through the removal of the rear setback concreted patio and replaced with lawn.	Acceptable – See Referrals Section for Landscape Development Officer comment.
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	Site coverage increase does not exceed 10%, As such the numerical control does not apply.	Yes - See Referrals Section for Landscape Development Officer comment.
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	The proposal retains existing POS with dimensions greater than minimum required for lot size.	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 =	Proposed = 0.69:1	
3.2	Building height		
	Building height LEP 2012 =	Existing = 13.45m	
	i) Habitable space above 1st floor level must	i) Habitable spaces	Yes

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DCP Clause	Controls	Proposal	Compliance
	be integrated into roofline ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height at street frontage v) Alternative design which varies 2 storey street presentation may be accepted with regards to: <ul style="list-style-type: none"> - Topography - Site orientation - Lot configuration - Flooding - Lot dimensions - Impacts on visual amenity, solar access, privacy and views of adjoining properties. 	on dwelling's first floor are integrated into the roofline. ii) Ceiling heights to remain as existing. iii) Floor to floor heights remaining as existing. iv) Subject site consists of 4 storeys with a 3-storey street presentation. Streetscape comprises multi storey dwelling houses. v) The site does contain topographical challenges with it being sloped approximately 6m towards Denning St.	Yes Yes Acceptable Yes
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites - Should align with setbacks of adjoining dwellings iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.	i) Front setback area proposed to remain as existing = 5.7m. ii) Site is not a corner allotment. iii) Proposed bin storage area within front setback at entry level.	Acceptable N/A Yes
3.3.2	Side setbacks  Up to 4.5m height: Required North = 0.9m Required South = 0.9m Between 4.5m and 7m height: Required North = 1.02m Required South = 1.02m Above 7m height: Required North = 3.4m Required South = 3.4m	Up to 4.5m height: Proposed North = 1.1m Proposed South = 1.05m Between 4.5m and 7m height: Proposed North = 1.1m Proposed South = 1.05m Above 7m height: Proposed North = 1.1m Proposed South = 1.05m	Yes Yes No – See Key Issues
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m,	Minimum = 8m	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>whichever lesser. Note: control does not apply to corner allotments.</p> <p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> - Existing predominant rear setback line - Reasonable view sharing (public and private) - Protect the privacy and solar access <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p><i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i></p> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings.</p>	<p>Proposed = 11.1m</p> <p>The development proposes an inground swimming pool and patio within rear setback.</p>	
4	Building design		
4.1	General		
	<p>i) A dwelling's overall built form must respect and follow the natural topography of the site. On sloping sites, the building mass must be modelled or stepped in response to the prevailing slope of the land and avoid concentrating the structural bulk on the uphill or downhill side of the allotment.</p> <p>ii) When arranging the built form on the site, avoid the creation of 'wedding cake' or 'pyramid' type buildings which due to their visual dominance are generally unsympathetic in their relationship to the natural landform.</p> <p>iii) Articulate the external facades of the dwelling to reduce the apparent mass and to present a human scale to adjoining properties, public areas and from key vantage points. This may be achieved by design measures such as:</p> <ul style="list-style-type: none"> - Window openings - Balconies or terraces - Entry porches - Staggered wall planes - A combination of materials and finishes - Decorative architectural elements <p>iv) Divide side elevations into Sections, bays or modules of not more than 12m length, separated by measures, such as recesses or side courtyards, in order to avoid massive or</p>	<p>i) The proposed dwelling is consistent with the stepped topography of the site.</p> <p>ii) Proposed built form design deemed sympathetic in relation to natural landform.</p> <p>iii) The external façade is articulated through window openings, staggered wall planes, architectural elements and materials and finishes.</p> <p>iv) Longest side elevation = 4.2m, dwelling proposed with recesses and stepped envelope.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

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DCP Clause	Controls	Proposal	Compliance
	<p>unrelieved walls</p> <p>v) Articulate all street elevations for development on corner allotments</p> <p>vi) Alterations and additions to an existing dwelling must present an integrated design with suitable configuration, materials and detailing, so that the new and retained structures provide an integrated composition</p> <p>vii) Balconies, terraces and decks must be of a size and configuration that are appropriate to the proportions of the building without excessively increasing its visual bulk.</p> <p>viii) Master bedrooms must have a minimum area of 10m² and other bedrooms 9m², both with a minimum dimension of 3m (excluding wardrobe space).</p>	<p>v) The subject site is not a corner allotment.</p> <p>vi) The proposed alterations and additions demonstrate an integrated design with suitable configuration.</p> <p>vii) Proposed works to balconies are limited to squaring off the rounded designs. Works are modest and proportionate.</p> <p>viii) All proposed bedrooms achieve the minimum dimension requirement.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
4.4	Roof terraces and balconies		
	<p>i) Locate on stepped buildings only (not on uppermost or main roof)</p> <p>ii) Where provided, roof terraces must:</p> <ul style="list-style-type: none"> • Prevent overlooking • Size minimised • Secondary POS – no kitchens, BBQs or the like • Maintain view sharing, minimise structures and roof top elements • Be uncovered and comply with maximum height <p>iii) Locate above garages on sloping sites (where garage is on low side)</p> <p><i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i></p>	<p>Proposal does not contain any roof terraces.</p> <p>Alterations will be made to existing balconies which will not promote overlooking or privacy issues.</p>	<p>Yes</p>
4.5	Roof design and features		
	<p><i>Dormers</i></p> <p>i) Dormer windows do not dominate</p> <p>ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</p> <p>iii) Multiple dormers consistent</p> <p>iv) Suitable for existing</p> <p><i>Clerestory windows and skylights</i></p> <p>v) Sympathetic to design of dwelling</p> <p><i>Mechanical equipment</i></p> <p>vi) Contained within roof form and not visible from street and surrounding properties.</p>	<p>The proposal involves replacement of existing clerestory windows.</p> <p>The first floor is proposed to accommodate a new skylight.</p>	<p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
4.6	Colours, Materials and Finishes		
	i) Schedule of materials and finishes. ii) Finishing is durable and non-reflective and uses lighter colours. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) Recycle and re-use sandstone	The application is supported by a brief outline of external finishes which accompany the submitted architectural plans. Proposed finishes are durable and non-reflective and deemed appropriate for the development.	Yes
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The solar access capabilities of the dwelling will remain unchanged.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> • Degree of meeting the FSR, height, setbacks and site coverage controls. • Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. • Topography of the subject and adjoining allotments. • Location and level of the windows in question. • Shadows cast by existing buildings on the neighbouring allotments. 	The submitted shadow diagrams demonstrate that given the nature of the works don't increase the dwelling's overall envelope and footprint there will be minimal impacts to neighbouring developments solar access.	Acceptable
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures	i) Proposed addition is adequately ventilated and naturally	Yes

DCP Clause	Controls	Proposal	Compliance
	quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer.		
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	i) Lawful access achieved via front elevation. ii) Street numbering displayed adjacent to pedestrian access. iii) Habitable room windows on first floor street facing. iv) Casual surveillance is maintained.	Yes Yes Yes Yes
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.	i) Nature of the proposed works promotes retention of existing views and vistas. ii) With removal of fixed pergola structure there will increased capability for view access across the sites front setback. iii) No impacts to views from the public domain. iv) Proposal has been designed sympathetic of views. No neighbouring properties raised concerns of potential view loss. v) The development is modest and doesn't seek to increase overall building height.	Yes Yes Yes Yes
7.5	Swimming pools and Spas		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. i) Pool and coping level related to site topography (max 1m over lower side of site). ii) Where pool coping height is above natural ground level, pool to be located to avoid pool boundary fencing exceeding 2.2m from existing ground level from adjoining	i) Proposed pool within rear setback. ii) Proposed pool positioned away from canopy trees. iii) Proposed pool set back from boundary. iv) Proposed pool coping level deemed	Yes Yes Yes Yes

D36/26

D36/26

DCP Clause	Controls	Proposal	Compliance
	properties. iii) Where above natural ground and has potential to create privacy impacts, appropriate screening or planting along full length of pool to be provided. Planting to comply with legislation for non-climbable zones. iv) Incorporate screening or planting for privacy as above, unless need to retain view corridors. v) Position decking to minimise privacy impacts. vi) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	appropriate in relation to the site. v) As above. vi) Planting positioned adjacent to pool towards site's rear boundary. vii) Pool is positioned adjacent to proposed tiled patio. viii) Pool equipment to be enclosed.	Yes Yes Yes Yes

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
3.2	Vehicle Parking Rates		
	1. Space per dwelling house with up to 2 bedrooms 2. Spaces per dwelling house with 3 or more bedrooms Note: Tandem parking for 2 vehicles is allowed.	Parking arrangements to remain as existing.	Yes

Responsible officer: Braeden Lewis, Environmental Planning Officer

File Reference: DA/171/2026

Development Consent Conditions – Dwelling House



DA No:	DA/171/2026
Property:	68 Denning Street, SOUTH COOGEE NSW 2034
Proposal:	Alterations and additions to the existing dwelling house including internal reconfiguration and level changes; installation of internal stairs, lift and garage access; entry modifications; extension of the first-floor balcony; new roof overhang, skylights and glazing; demolition and reconstruction of the entry, external stairs and bin store; removal of the rear balcony and vergola; new awnings, rear patio and shed; swimming pool, outdoor shower and built-in barbecue and associated landscaping works.
Recommendation:	Approval

GENERAL CONDITIONS

Condition

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

Plan	Drawn by	Dated	Received by Council
Basement & Entry Level Demolition Plan – DA1.04	Stirling & Andie	15/12/2025	20/02/2026
Ground & First Floor Demolition Plans – DA1.05	Stirling & Andie	15/12/2025	20/02/2026
Roof Demolition Plan – DA1.06	Stirling & Andie	15/12/2025	20/02/2026
Proposed Basement & Entry Level Plans – DA1.07	Stirling & Andie	15/12/2025	20/02/2026
Proposed Ground & First Floor Plans – DA1.08	Stirling & Andie	15/12/2025	20/02/2026
Proposed Roof Plan – DA1.09	Stirling & Andie	15/12/2025	20/02/2026
Elevations Plan – DA1.10	Stirling & Andie	15/12/2025	20/02/2026
Sections Plan – DA1.11	Stirling & Andie	15/12/2025	20/02/2026
Landscape Plan – DA1.12	Stirling & Andie	15/12/2025	20/02/2026

BASIX Certificate No.	Dated	Received by Council
A1827121	16/12/2025	20/02/2026

In the event of any inconsistency between the approved plans and supplementary

 Condition

documentation, the approved drawings will prevail.

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

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

 Condition

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

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

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

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

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

4. **Section 7.12 Development Contributions**
In accordance with Council's Randwick City Development Contributions Plan 2024, effective from 31 July 2024, based on the development cost of \$1,179,018.02 the following applicable monetary levy must be paid to Council: \$11,790.18.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone **9093 6000** or **1300 722 542** for the indexed contribution amount prior to payment.

To calculate the indexed levy, the following formula must be used:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Condition

Condition Reason: To ensure relevant contributions are paid.

5. **Long Service Levy Payments**

Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.

Condition Reason: To ensure the long service levy is paid.

6. **Security Deposits**

The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- \$3000.00 - Damage / Civil Works Security Deposit

Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.

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

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

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

7. **Sydney Water**

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

The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

The Tap in™ service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

	Condition
	<p>Sydney Water's Tap in™ in online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</p>
	<p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p>
	<p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
8.	<p>Building Code of Australia In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p>
	<p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p>
	<p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
9.	<p>BASIX Requirements In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.</p>
	<p>The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.</p>
	<p>The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.</p>
	<p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
10.	<p>Stormwater Drainage A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-</p>
	<p>a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);</p>
	<p>b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;</p>
	<p>c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises;</p>
	<p>d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;</p>

Condition
<p>e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.</p> <p>Condition Reason: To control and manage stormwater run-off.</p>
<p>11. Stormwater Drainage Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the Certifier and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
<p>12. Excavation Earthworks and Support of Adjoining Land Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
<p>13. Excavation, Earthworks and Support of Adjoining Land A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:</p> <ul style="list-style-type: none"> • when undertaking excavation or building work within the zone of influence of the footings of a dwelling or other building that is located on the adjoining land; • when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling); • when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and • as otherwise may be required by the Certifier for the development. <p>The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
<p>14. Building Code of Australia – Swimming Pools Swimming Pools and Spa Pools are to be designed and installed in accordance with the requirements of the <i>Building Code of Australia</i> and be provided with a child-resistant barrier in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools.</p> <p>Details of compliance are to be provided in the Construction Certificate.</p> <p>Temporary pool safety fencing is also required to be provided to swimming pools pending the completion of all building work and swimming pools must not be filled until a fencing inspection has been carried out and approved by the Principal Certifier.</p> <p><i>Note: This development consent does not approve the design and location of</i></p>

- | | Condition |
|-----|---|
| | <p><i>swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.</i></p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.</p> |
| 15. | <p>Swimming Pool Safety
Swimming pools are to be designed, installed and operated in accordance with the following general requirements:</p> <ul style="list-style-type: none"> • Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation. • Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance. • Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems. • Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises. <p>Condition Reason: To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area.</p> |
| 16. | <p>Landscape Plans
The Adopted Landscape Plans by Stirling and Andie REV A dated 15/12/2025 must be amended to now include the following requirements:</p> <ol style="list-style-type: none"> a) A Planting Plan & Plant Schedule which includes proposed species, botanic and common names, pot size at the time of planting, quantity/density, location, dimensions at maturity and any other details required to describe the works. b) A predominance of species that can withstand poor quality sandy soils and salt laden winds which are typical of these coastal conditions. c) A predominance of species that are not reliant on high quantities of moisture and fertilizer for survival. d) A high-quality selection and arrangement of decorative species throughout the front setback planters so as to assist with presentation of the development to the streetscape. e) Provision of a 1.0 metre wide, deep soil garden bed around the perimeter of the rear yard/length of western and northern edges of pool, to which, a continuous evergreen hedge/shrubs shall be planted, using a species which will attain a minimum height of 1.5 metres at maturity. <p>Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.</p> |
| 17. | <p>Landscape Plans
A revised scheme complying with the requirements specified above must then be submitted to, and be approved by, the Principal Certifier, prior to any Construction</p> |

	Condition
	Certificate.
	Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.
18.	<p>Protection of tree within street</p> <p>1. To ensure retention of small Olive Tree plotted within councils Denning Street Verge, near power pole, adjacent entrance gate to subject site, the following measures are to be undertaken:</p> <ol style="list-style-type: none"> a) All documentation submitted for the Construction Certificate application must show its retention, with the position and diameter of its trunk canopy to be clearly and accurately shown on all plans in relation to the proposed works. b) This tree must be physically protected with the installation of 1.8-metre-high steel mesh/chainwire fencing panels, measuring 2000mm from trunk, matching up with kerb to east, footpath to west, crossover to its north to completely enclose the tree for the duration of works. c) This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER". d) If additional trunk or branch protection is required, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around their circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk. e) Ground levels within the TPZ's must not be altered by more than 200mm, with no other structures such as continuous strip footings, planter boxes or similar to be located in this area, which is to remain as undisturbed, deep soil. f) The applicant is not authorised to perform any other works to this public tree and must contact Council's Landscape Development Officer on 9093-6633 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, GIVING UP TO SIX WEEKS NOTICE, with payment to be received prior to pruning or any Occupation Certificate. g) Within the TPZ there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements. h) The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior

 Condition

to any Occupation Certificate.

A refundable deposit in the form of cash, credit card, cheque OR bank guarantee for an amount of **\$500.00** must be paid into **Tree Preservation Deposit** via Council's Customer Service Centre, **prior to a Construction Certificate being issued for the development** to ensure compliance with the conditions listed in this consent, and preservation of the tree.

The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form' and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6633)

Any contravention of Council's conditions relating to the tree/s at any time during the course of the works or prior to an Occupation Certificate may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 4.17 (6) of the Environmental Planning and Assessment Act 1979.

Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment – Trees – Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines.

Condition Reason: Protection and/or maintenance of existing environment public infrastructure, community assets and significant trees.

19. **Protection of neighbour's trees**

To ensure retention of all species within north and northwestern aspects of northern neighbouring No.66 property, between 6-12 metres high, good vigour, good health, the following measures are to be undertaken:

- a) All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunks, canopies SRZ, TPZ to be clearly and accurately shown on all plans in relation to the proposed works.
- b) Root mapping techniques to be provided prior to pool excavations and following removal of existing concrete.
 - I. Hand excavation of a depth of 600mm and a width of 400mm along north and western aspects of pool, roots to be uncovered and not damaged.
 - II. Where major roots with a diameter of **50mm or more** are encountered, Council's officer must be contacted, peter.napier@randwick.nsw.gov.au then determine if they must be retained.
 - III. Where roots with a diameter of less than 50mm are found which are in direct conflict with the approved works, and permission is

Condition
<p>given for their pruning, they may be cut cleanly using hand-held tools only, with the affected area to then being backfilled with clean site soil as soon as practically possible.</p> <p>c) Where there is a difference in level between this site and an adjoining property, and the soil level where the trees are growing is higher than the subject site, if the soil profile is to be exposed for any period of time, temporary shoring must be provided along the common boundary so as to prevent failure of the soil and trees, with a suitable system to be approved by the PCA, prior to installation.</p> <p>d) All vegetation and trees must be physically protected with existing boundary fences, if any existing fences are removed, installation of 1.8-metre-high steel mesh/chainwire fencing panels, which shall be secured to the boundary fences to completely enclose neighbouring dwelling trees and vegetation for the duration of works.</p> <p>e) Existing common boundary fencing shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached to northern and western fences: “TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER”</p> <p>f) Ground levels within the TPZ’s must not be altered by more than 200mm, with no other structures such as continuous strip footings, planter boxes or similar to be located in this area, which is to remain as undisturbed, deep soil.</p> <p>g) Within the TPZ’s there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.</p> <p>h) The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.</p>

Condition Reason: To ensure that vegetation has been assessed against Council’s environmental and biodiversity controls.

BEFORE BUILDING WORK COMMENCES

Condition
<p>20. Building Certification & Associated Requirements The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p>

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

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

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

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

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

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

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

Condition

- as may be required by the Principal Certifier for the development.

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

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

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

23. **Construction Site Management Plan**

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

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

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.

A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

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

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

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

A Construction Noise & Vibration Management Plan Guideline must be prepared by a suitably qualified person in accordance with the Environment Protection Authority Construction Noise and the Assessing Vibration: A Technical Guideline and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works.

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

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Condition	
25.	<p>Public Utilities A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
26.	<p>Public Utilities The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

DURING BUILDING WORK

Condition	
27.	<p>Site Signage It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:</p> <ul style="list-style-type: none"> a) showing the name, address and telephone number of the principal certifier for the work, and b) showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and c) stating that unauthorised entry to the work site is prohibited. <p>The sign must be—</p> <ul style="list-style-type: none"> a) maintained while the building work is being carried out, and b) removed when the work has been completed. <p>This section does not apply in relation to—</p> <ul style="list-style-type: none"> a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Condition Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
28.	<p>Restriction on Working Hours Building, demolition and associated site works must be carried out in accordance with the following requirements:</p>

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No

Condition	
	work permitted
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 3.00pm • (maximum) • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

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

29.

Public Safety & Site Management

Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.

If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or,

	Condition
	<p><i>operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.</i></p> <p>h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.</p> <p>i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA guidelines.</p> <p>j) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>k) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6000 for further details.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
30.	<p>Building Encroachments</p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
31.	<p>Tree & Vegetation Management</p> <p>Due to their small size and insignificance, no objections are raised to removing any vegetation within this development site where needed to accommodate the approved works as shown.</p> <p>Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.</p>
32.	<p>Road / Asset Opening Permit</p> <p>A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.</p> <p>The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.</p> <p>For further information, and access to the Asset Opening Permit application form please visit Councils website at</p> <p>https://www.randwick.nsw.gov.au/services/roads/road-and-footpath-excavations</p> <p>or ring the call centre on 1300 722 542</p> <p>Condition Reason: To ensure protection and/or repair of Council's Road & footpath assets and ensure public safety.</p>

Condition

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

33. **Occupation Certificate Requirements**
 An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- Condition Reason: Statutory requirement. To ensure the site is authorised for occupation.
34. **BASIX Requirements**
 In accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.
- Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.
- Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.
35. **Council’s Infrastructure, Vehicular Crossings and Street Verge**
 All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council’s “Crossings and Entrances – Contributions Policy” and “Residents’ Requests for Special Verge Crossings Policy” and the following requirements:
- (a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - (b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council’s conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - (c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.
- Condition Reason: To ensure works are completed in accordance with Council’s requirements and an appropriate quality for new public infrastructure.
36. **Council’s Infrastructure, Vehicular Crossings, street verge**
 The applicant must meet the full cost for Council or a Council approved contractor

	Condition
	<p>to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc. which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.</p> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
37.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>That part of the nature-strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.</p> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public landscaping.</p>
38.	<p>Swimming Pool Safety</p> <p>Swimming Pools [and Spa Pools] are to be provided with a child-resistant barrier (i.e. fence, in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).</p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
39.	<p>Swimming Pool Safety</p> <p>A 'warning notice' must be installed in a prominent position in the immediate vicinity of a Swimming Pool [or Spa Pool], in accordance with the provisions of the <i>Swimming Pools Regulation 2018</i>, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.</p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
40.	<p>Swimming Pool Safety</p> <p>The owner of the premises must 'register' their Swimming Pool [or Spa Pool] on the NSW Swimming Pool Register, in accordance with the <i>Swimming Pools Act 1992</i>. The Swimming Pool Register is administered by the NSW Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.</p> <p>Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifier and Council accordingly.</p> <p>Condition Reason: To ensure registration of the swimming pool/spa in accordance with relevant legislation.</p>
41.	<p>Landscaping Certification</p> <p>The Principal Certifier must ensure that landscaping at this site has been installed in accordance with the approved plan/s and any relevant conditions of consent, prior to any Occupation Certificate, with the owner/s to then maintain it in a healthy and vigorous state until maturity.</p> <p>Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of development.</p>

Condition

Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.

OCCUPATION AND ONGOING USE

Condition

42. **Use of Premises**
 The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.

 Condition Reason: To ensure the development is used for its intended purpose.
43. **External Lighting**
 External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

 Condition Reason: To protect the amenity of the surrounding area and residents.
44. **Plant & Equipment**
 Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

 Condition Reason: To protect the amenity of the surrounding area and residents.

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition

45. **Demolition Work Plan**
 A demolition work plan must be developed and be implemented for any demolition works in accordance with AS2601 (2001)- Demolition of Structures.

 The demolition work must be carried out in accordance with relevant SafeWork NSW Requirements and Codes of Practice; Australian Standard – AS 2601 Demolition of Structures and Randwick City Council's Asbestos Policy.

 The demolition work plan must include details of the demolition, removal, storage and disposal of any hazardous materials (including materials containing asbestos).

 A copy of the demolition work plan must be provided to the Principal Certifier and Council. A copy shall also be maintained on site and be made available to Council officers upon request.

 Condition Reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.

DURING DEMOLITION WORK

Condition

46. **Demolition Work**
 Any demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard - AS 2601 (2001) -

Condition

Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.

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

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro),
- Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations
- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",
- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works.

Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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