

Randwick Local Planning Panel (Public) Meeting

Thursday 14 May 2026



RANDWICK LOCAL PLANNING PANEL (PUBLIC) MEETING

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting will be held online via Microsoft Teams on Thursday, 14 May 2026 at 1pm.

Acknowledgement of Country

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

Declarations of Pecuniary and Non-Pecuniary Interests

Address of RLPP by Councillors and members of the public

Privacy warning;

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

Development Application Reports

D23/26	94 Dolphin Street, Coogee (DA/65/2026).....	1
D24/26	74 St Marks Road, Randwick (DA/1456/2025).....	93

Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D23/26

Subject: 94 Dolphin Street, Coogee (DA/65/2026)

D23/26

Executive Summary

Proposal:	Demolition of existing building/structures, tree removal and construction of a 5-storey residential flat building comprising seven (7) x apartments (2 x 3-bedroom, 4 x 2-bedroom, 1 x 1-bedroom) and a single basement level for eight (8) car parking spaces, associated ancillary and landscaping works, and Strata subdivision (Variation to Maximum Building Height development standard, Infill Affordable Housing).
Ward:	East Ward
Applicant:	The Trustee For Coogee Beach Developments Trust
Owner:	Coogee Beach Developments Pty Ltd
Cost of works:	\$4,976,690.88
Reason for referral:	The development contravenes the development standards for floor space ratio and building height by more than 10%; The development is subject to SEPP 65 as the building is 3 or more storeys and contains at least 4 dwellings; 18 unique submissions by way of objection were received

Recommendation

That the RLPP refuses consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/65/2026 for demolition of existing building/structures, tree removal and construction of a 5-storey residential flat building comprising seven (7) x apartments (2 x 3-bedroom, 4 x 2-bedroom, 1 x 1-bedroom) and a single basement level for eight (8) car parking spaces, associated ancillary and landscaping works, and Strata subdivision (Variation to Maximum Building Height development standard, Infill Affordable Housing), at No. 94 Dolphin Street, Coogee, for the following reasons:

1. Pursuant to section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the following provisions of the *Randwick Local Environmental Plan 2012* (RLEP 2012):
 - a. Pursuant to clause 2.3 of RLEP 2012, the proposed development is inconsistent with the objectives of the R3 Medium Density Residential zone. The scale, bulk and five-storey built form are not compatible with the desired future character of Dolphin Street and fail to adequately protect the amenity of neighbouring residential properties.
 - b. Pursuant to clause 4.4 of RLEP 2012, the proposed development does not comply with the maximum floor space ratio development standard. The extent of the exceedance results in an overdevelopment of the site and a built form that is excessive in scale and intensity.
 - c. Pursuant to clause 4.3 of RLEP 2012, the proposed development does not comply with the maximum building height development standard, even after applying the applicable incentive under the State Environmental Planning Policy (Housing) 2021. The resulting five-storey built form is excessive and incompatible with the character of the locality.
 - d. Pursuant to clause 5.10 of RLEP 2012, the proposed development has not demonstrated that it is compatible with the scale, character or setting of the

adjoining heritage items at 90–100 Brook Street. The excessive height and bulk would visually dominate and diminish the heritage context.

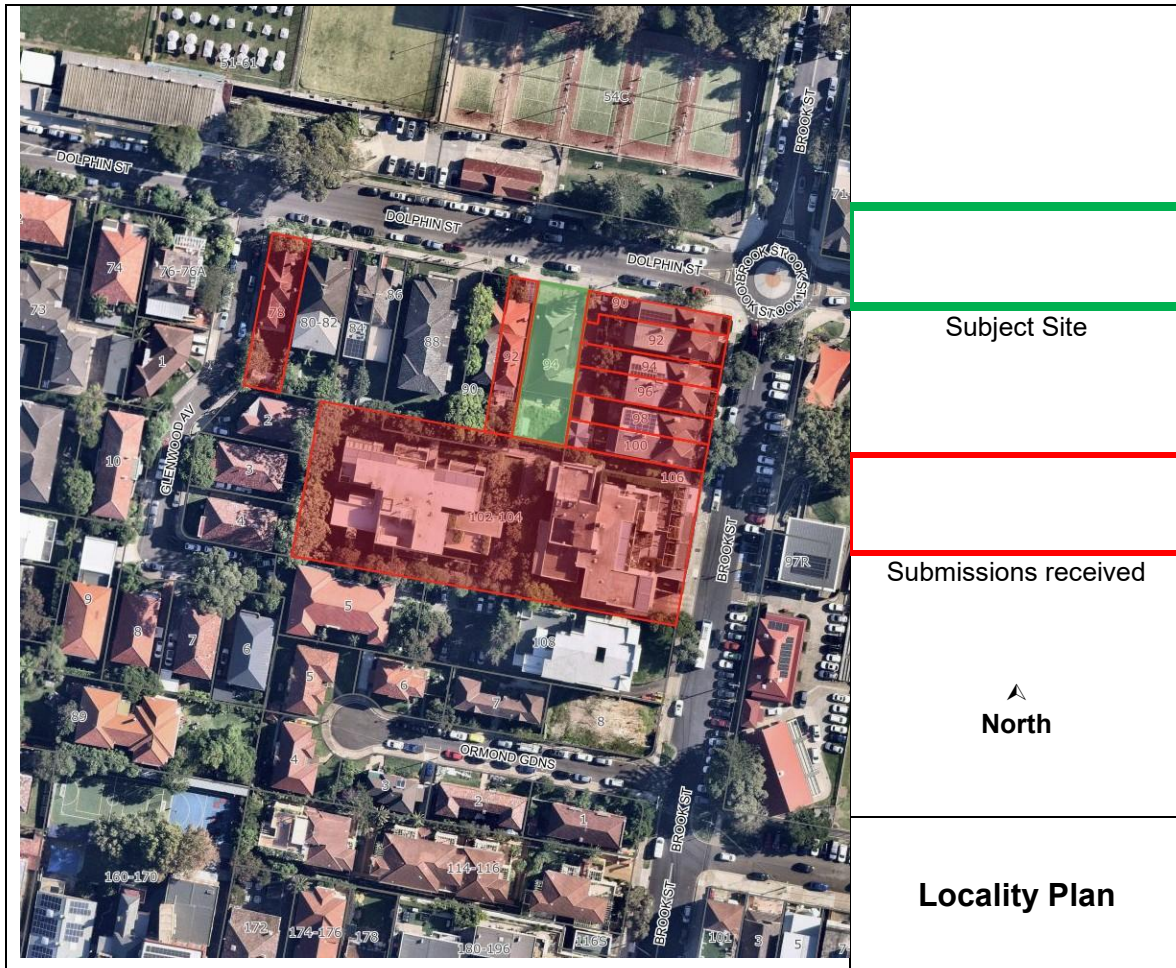
- e. Pursuant to clause 6.1 of RLEP 2012, the site is identified as potentially affected by acid sulfate soils and no investigation or management measures have been submitted. Council cannot be satisfied that excavation and earthworks can be undertaken without environmental harm.
2. Pursuant to section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the following provisions of the State Environmental Planning Policy (Housing) 2021:
 - a. Pursuant to section 20(3)(a), the proposed development fails to demonstrate compatibility with the desirable elements of the character of the local area or the desired future character, having regard to its excessive scale and intensity.
 - b. Pursuant to Chapter 4 of the Housing SEPP and the Apartment Design Guide, the proposed development does not comply with the deep soil zone requirements. Extensive basement coverage prevents the provision of the minimum deep soil area required to support substantial planting and meaningful landscaping outcomes.
 3. Pursuant to clause 4.6 of RLEP 2012 and section 35B(2) of the *Environmental Planning and Assessment Regulation 2021*:
 - a. No written request has been submitted to justify contravention of the floor space ratio development standard. In the absence of a valid Clause 4.6 written request, the consent authority is not empowered to grant consent.
 - b. The written request submitted to justify contravention of the building height development standard fails to demonstrate that compliance with the standard is unreasonable or unnecessary and fails to establish sufficient environmental planning grounds to justify the extent of the exceedance.
 4. Pursuant to section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not comply with the following provisions of the Randwick Development Control Plan 2013 (RDCP 2013):
 - a. Pursuant to Part C2, Section 5.1 of RDCP 2013, the submitted solar access information does not accurately reflect existing site conditions. Council cannot be satisfied that reasonable solar access to neighbouring properties will be maintained.
 - b. Pursuant to Part C2, Section 4.4 (External Wall Height) of RDCP 2013, the proposed development exceeds the maximum external wall height control. The non-compliance contributes to excessive bulk and exacerbates amenity impacts on adjoining properties.
 - c. Pursuant to Part C2, Section 4.12 of RDCP 2013, the extent of basement excavation, including nil setbacks and excessive excavation depths, is unjustified and results in unacceptable bulk, site stability concerns and impacts on adjoining land. In the absence of an arborist report assessing impacts on trees located on adjoining land, Council cannot be satisfied that excavation and construction works will not adversely affect adjoining trees.
 - d. Pursuant to Part C2, Section 5.4 of RDCP 2013, no acoustic assessment has been submitted. Council cannot be satisfied that noise impacts, including those associated with the rooftop terrace, will not unreasonably affect adjoining residential properties.

- e. Pursuant to Part C2, Section 5.5 of RDCP 2013, no detailed view sharing analysis has been provided for assessment of impacts to western neighbouring properties.
5. Pursuant to section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.

Attachment/s:

Nil

D23/26



1. Executive summary

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

- The development contravenes the development standards for floor space ratio and building height by more than 10%
- The development is subject to SEPP 65 as the building is 3 or more storeys and contains at least 4 dwellings
- 18 unique submissions by way of objections were received

The proposal seeks development consent for demolition of existing building/structures, tree removal and construction of a 5-storey residential flat building comprising seven (7) x apartments (2 x 3-bedroom, 4 x 2-bedroom, 1 x 1-bedroom) and a single basement level for eight (8) car parking spaces, associated ancillary and landscaping works, and Strata subdivision

The key issues associated with the proposal relate to non-compliance with maximum floor space ratio and building height development standards, the absence and inadequacy of Clause 4.6 written requests, incompatibility with the desired future character of the locality, unacceptable built form and amenity impacts, non-compliance with the Apartment Design Guide and RDCP 2013, heritage impacts, excessive excavation.

It is noted that the application is currently subject to a Class 1 appeal against the deemed refusal of the application with the Land and Environment Court (refer No. 2026/00108702).

2. Site Description and Locality

The subject site is legally described as at Lot 1 in DP 72225 and commonly known as No. 94 Dolphin Street, Coogee. The site is on the southern side of Dolphin Street and to the west of Coogee Oval and is regular in shape with a primary northern frontage of 13.385m to Dolphin Street. The site has an area of 538.8m². The site falls approximately 2.5m from the rear of the site to the front at Dolphin Street. The site also falls approximately 1m from the east to the west (refer Figure 1). The subject site is currently occupied by a single storey dwelling house. (refer Figures 2-3).

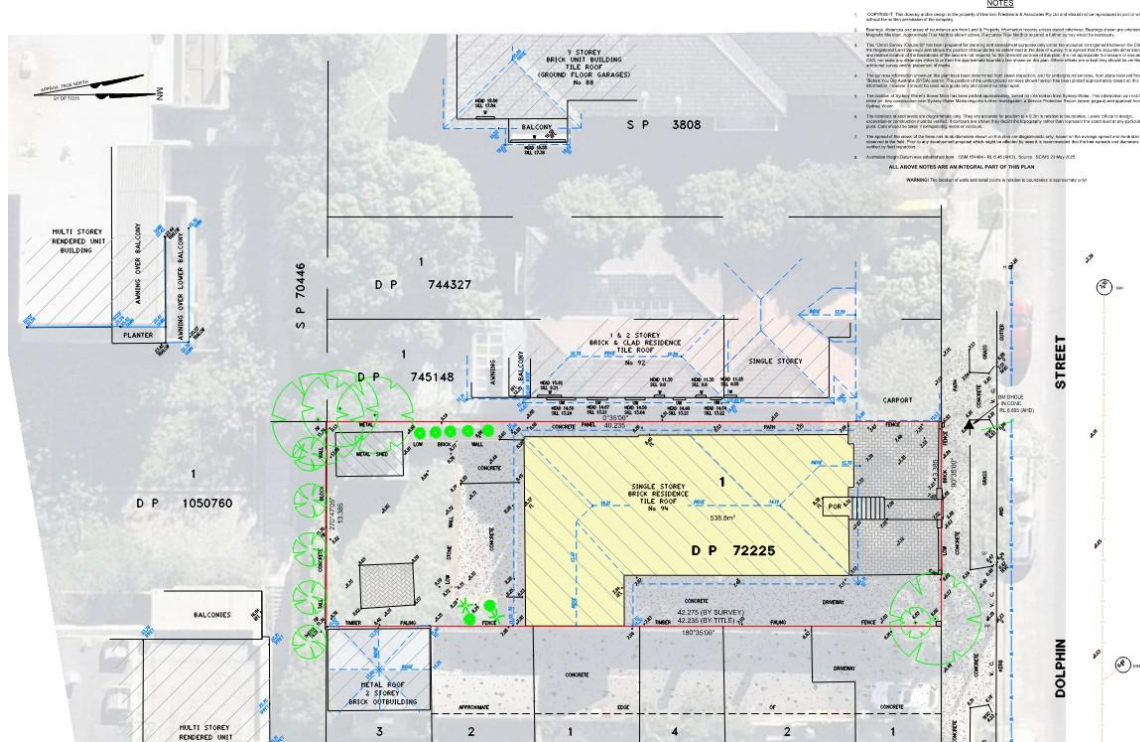


Figure 1: Site survey (Source: Harrison Friedmann & Associates)



Figure 2: Photo of existing dwelling on site, taken to south from Dolphin Street (Source: Council)

D23/26

D23/26



Figure 3: Photo of existing dwelling on site (Source: Council)

There is a private laneway to the east that provides vehicle access to the Brook Street terraces (No.90-100 Brook Street). These terraces consist of three buildings containing six semi-detached dwellings, all are locally listed heritage items '2 storey semi-detached group' within Randwick Local Environmental Plan 2012 (RLEP) (refer Figures 4-5).



Figure 4: Photo of 90-92 Brook Street – taken from south west (Source: Council)



Figure 5: Photo of private lane at the rear of Brook Street terraces – subject site on right (Source: Council)

Adjoining the site to the west is a semi-detached dwelling at No.92 Dolphin Street with its adjoining semi to the west of that property at No.90 Dolphin Street. West of these dwellings is No.88 Brook Street, a four storey residential flat building. To the rear at the south of the subject site are 2 x 5-storey mixed use and residential flat buildings (No.102-106 Brook Street) on the former Randwick Rugby Club site (refer Figures 6-7).



Figure 6: Photo of 102-106 Brook Street – taken facing west from Brook Street (Source: Council)



Figure 7: Photo of rear yard of subject site with No.102-106 Brook Street behind – taken from 1st floor of No.92 Dolphin Street (*Source: Council*)

Surrounding development is primarily residential in nature and is characterised by a mix of detached and semi-detached dwellings as well as residential flat buildings. Development typically varies from one (1) to four (4) storeys in height, though the residential flat buildings at No.102-106 Brook Street are five (5) storeys.

3. Relevant history

The land has been used for residential purposes for an extended period of time. A search of Council's records did not reveal any recent or relevant applications for the site.

4. Proposal

The proposal seeks development consent for demolition of the existing dwelling and construction of a 5-storey residential flat building comprising of (refer Figures 8-19):

- Driveway leading from Dolphin Street to the basement level;
- 8 basement level parking spaces with storage, 5 bike spaces;
- A bin room and a plant/services room on the basement level;
- Pedestrian path leading from Dolphin Street to the breezeway on the ground floor;
- Total of 7 units (1 x 1-bedroom, 4 x 2-bedroom and 2 x 3-bedroom);
- Unit 02 (1 x 3-bedroom unit) will be provided as affordable housing;
- Landscaping around the perimeters of the building on the ground floor, including a consolidated on-slab vegetated area at the rear of the site and planter landscaping along the northern, eastern and southern parts of levels 1 to 4.



Figure 8: Photomontage (Source: pbd architects)

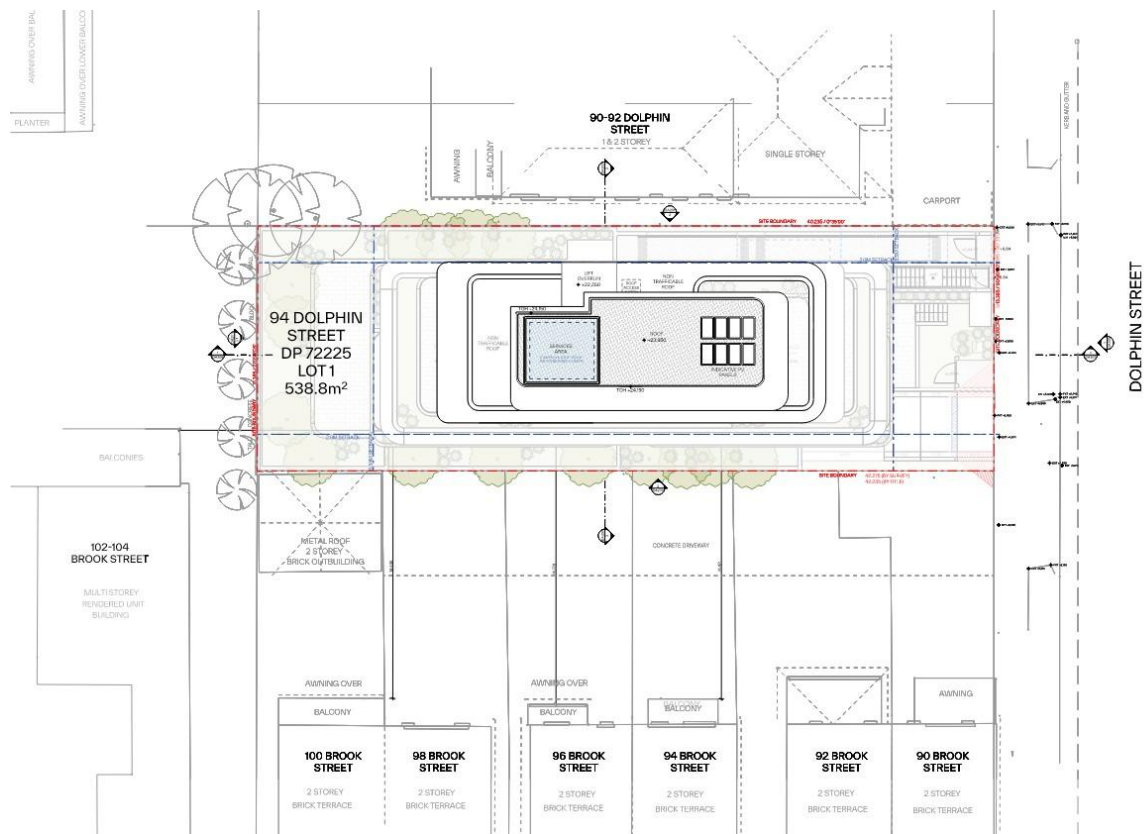


Figure 9: Site plan (Source: pbd architects)

D23/26

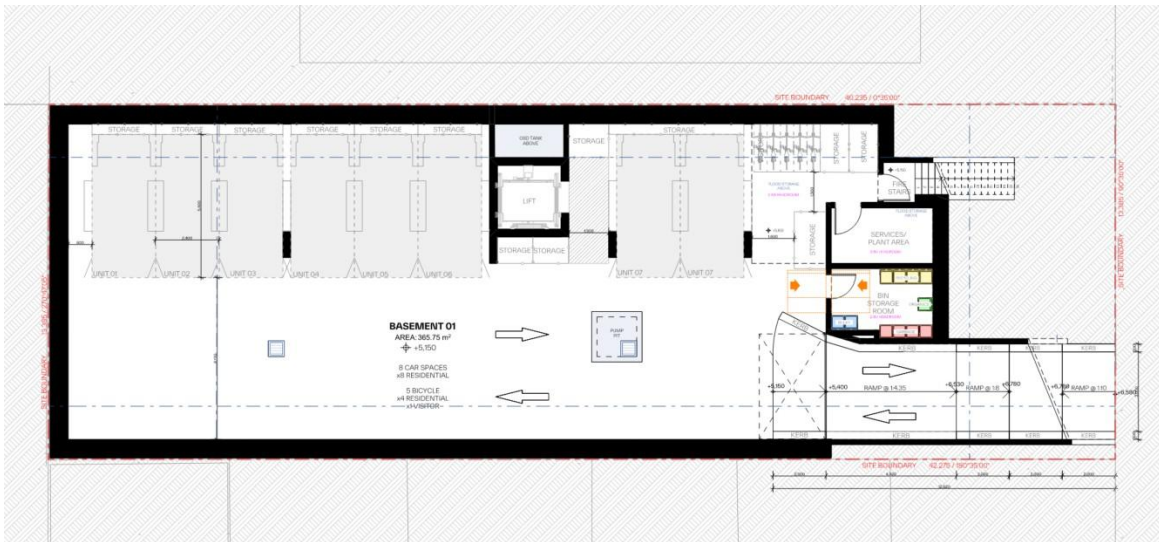


Figure 10: Basement plan (Source: pbd architects)

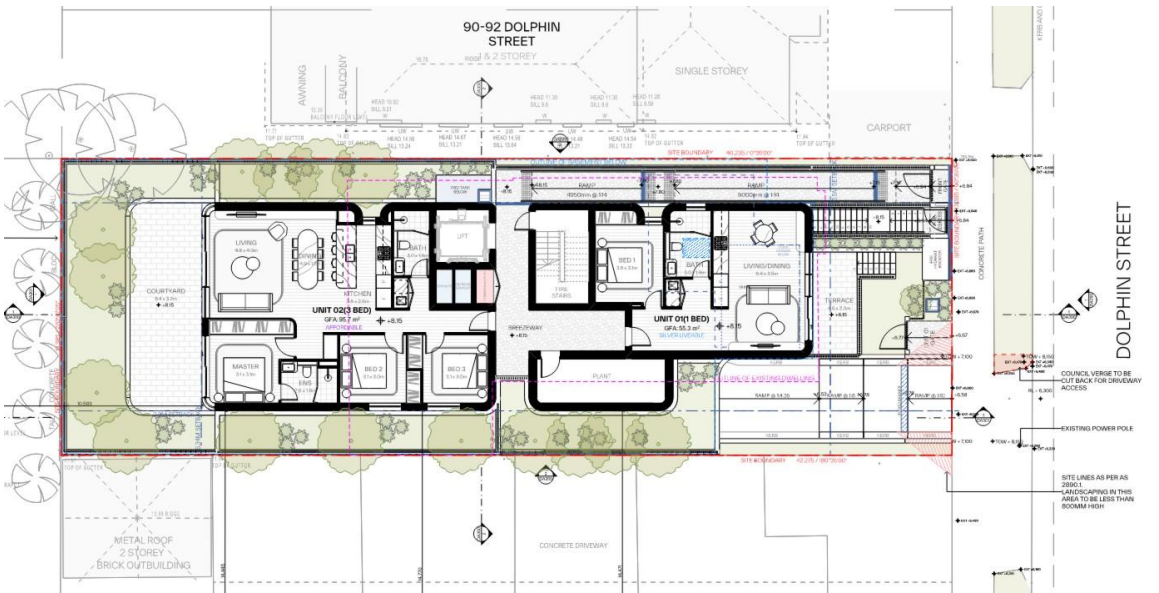


Figure 11: Ground floor plan (Source: pbd architects)

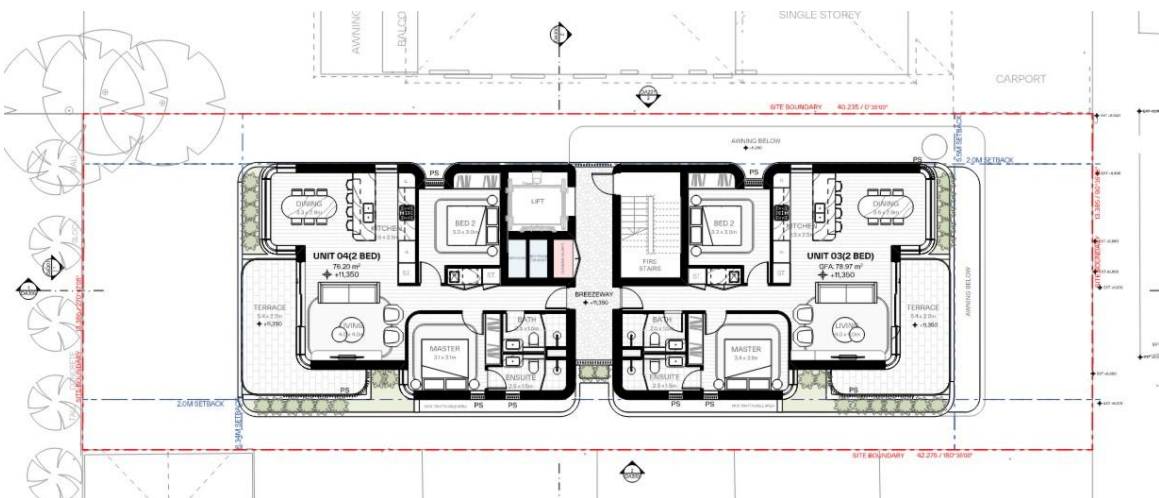


Figure 12: 1st floor plan (Source: pbd architects)



Figure 13: 3rd floor plan (Source: pbd architects)

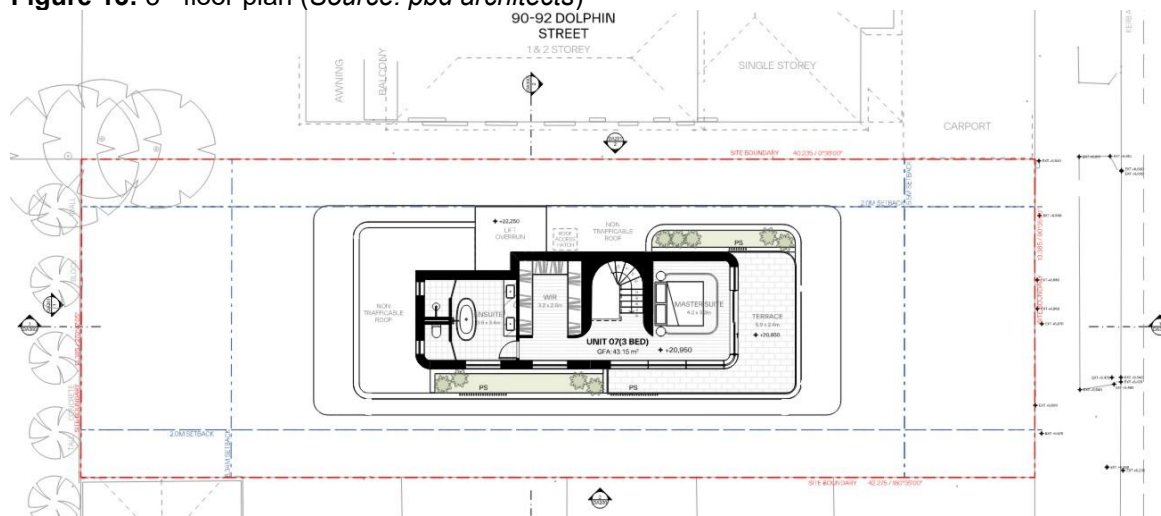


Figure 14: 4th floor plan (Source: pbd architects)

D23/26



Figure 15: North elevation (Source: pbd architects)



Figure 16: East elevation (Source: pbd architects)

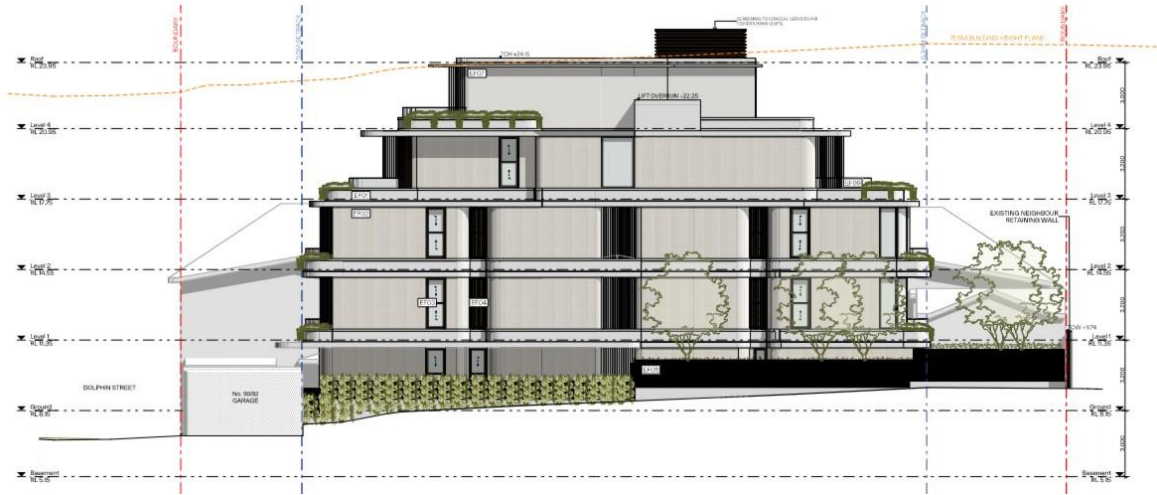


Figure 17: West elevation (Source: pbd architects)



Figure 18: Long section (Source: pbd architects)

D23/26

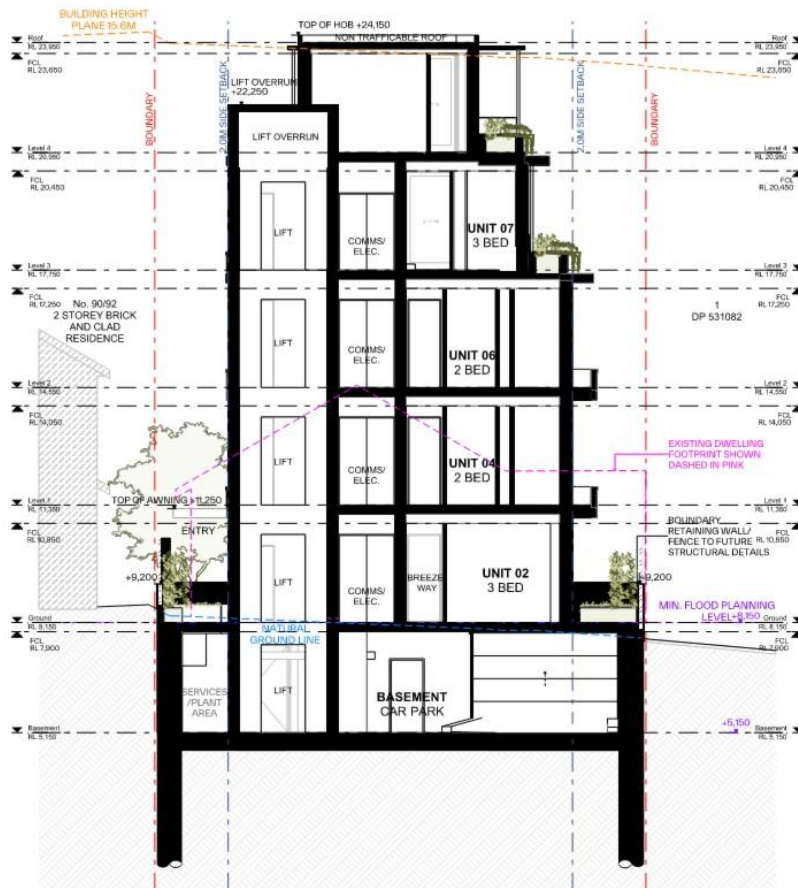


Figure 19: Short section (Source: pbd architects)

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy. The following 18x submissions were received as a result of the notification process:

- 90 Brook Street, Coogee
- 92 Brook Street, Coogee
- 94 Brook Street, Coogee
- 96 Brook Street, Coogee
- 98 Brook Street, Coogee – 2x independent submissions
- 100 Brook Street, Coogee
- A305/106 Brook Street, Coogee
- B405/106 Brook Street, Coogee
- B502/106 Brook Street, Coogee
- 64 Dolphin Street, Coogee
- 92 Dolphin Street, Coogee
- 8/188 Carrington Road, Randwick
- 7/200 Carrington Road, Randwick
- 1 Berwick Street, Coogee
- 2x submissions with addresses not provided

- Coogee Precinct Committee

Objections raised are consolidated below:

Height of Buildings (LEP Clause 4.3)

Submissions raised concern on the proposed building height of 17.46m. It is asserted this proposed height is a substantial breach of the LEP 12m height limit and also breaches the building height enabled by the 30% affordable housing bonus under the Housing SEPP (15.6m).

Submitters argue that this breach is not justified, and the Clause 4.6 variation request fails to demonstrate that strict compliance is unreasonable and fails to address the public benefit.

Objection is raised regarding pushing the height above Housing SEPP bonus. Amenity impacts raised associated with the building height include excessive visual bulk and dominance over streetscape and adjoining dwellings, overshadowing and impact on the heritage value of the Heritage Item '2 storey semi-detached group' (90–100 Brook St).

It is asserted in submissions that the flood planning level requirements is not a valid reason for justifying height exceedance. Submissions state that height must be measured from existing ground level (per *Merman Investments v Woollahra Council*) and not adjusted levels.

The submissions reference *Wehbe v Pittwater Council [2007] NSWLEC 827*, the Court established that a variation to a development standard may only be justified where the objective of that standard is still achieved – it is argued that the overshadowing caused by the Height of Buildings breach fails to meet the LEP objectives.

Assessing Officer Comment

The matters raised in submissions regarding the extent of the height exceedance, justification of the proposed height, and associated amenity and heritage impacts have been considered. The proposed height, including exceedance of the Housing SEPP bonus, and its implications for bulk, scale, amenity and heritage context are addressed in detail under the Key Issues and Clause 4.6 sections of this report.

Floor Space Ratio (FSR)

Submissions object to the proposed FSR. The LEP development standard is 0.9:1 and the proposed FSR of 1.14:1 is 26.6% above this standard. It is acknowledged that with the Housing SEPP bonus, the FSR development standard applying to the proposal is 1.17:1, however, it is asserted that the design still represents an overdevelopment give site constraints. It is stated that the narrow lot and proximity to heritage terraces make the FSR inappropriate even if technically permissible. It is argued that character and amenity impacts demonstrate that the bulk produced by the FSR is unsuitable.

Assessing Officer Comment

Submissions relating to the appropriateness of the proposed floor space ratio, site constraints and bulk outcomes have been considered. The applicable FSR controls, Housing SEPP bonus provisions, and Council's assessment of the proposed GFA calculations and resulting bulk are addressed under Key Issues - Floor Space Ratio (FSR) section of this report.

Overshadowing and Solar Access

Submissions state that there are major overshadowing amenity impacts. Submissions from the Brook Street heritage terraces (90–100 Brook St) argue they receive 3.5–4 hours winter sun but under proposal this is reduced to 2–2.5 hours and this is below the minimum 3 hours required by the DCP. Rear courtyards, main living rooms, and west-facing doors lose significant sunlight.

No.92 Dolphin Street (western semi) is stated to become a "dark valley" due to 5-storey wall within ~2 m with a loss of light to 70% of windows on the eastern elevation. It is stated that overshadowing is a direct result of height breach and inadequate side setbacks.

The submissions assert that the overshadowing impacts means the proposal fails to achieve the objectives of Height of Buildings LEP Section 4.3 (minimise impact on adjoining properties).

It is claimed Heritage significance is affected by the loss of open rear setting and sunlight, despite the Heritage Impact Statement claiming, “no impact”.

Submissions also highlight incomplete modelling, with the fences to the Brook Street terraces not modelled. It is also unclear if the RLs are correct as the rear private open spaces are on a lower level and this would impact shadows cast.

Assessing Officer Comment

The solar access and overshadowing concerns raised by submitters, including impacts on the Brook Street heritage terraces and adjoining Dolphin Street properties, have been considered. The adequacy of the submitted solar access information and the relationship between overshadowing impacts and the non-compliant height and bulk are addressed in Key Issues - the Solar Access and Overshadowing section of this report.

Privacy and Overlooking (DCP Section 5.3)

Submissions object to direct overlooking of courtyards, primary living areas, bedrooms (including at 98 and 100 Brook Street) and the private open space of No.92 Dolphin Street. The privacy impacts are linked to the 2 m side setback which is argued to be insufficient for a 5-storey wall. Proposed balconies and windows on Levels 1–4 allow direct sightlines into the Brook Street terraces. The proposed canopy trees in the 2 m setback are considered to be physically unachievable (insufficient soil depth above basement slab), unable to grow due to less than 1 hour winter sun and therefore not credible as a privacy mitigation measure.

Assessing Officer Comment

Issues raised regarding overlooking, privacy impacts from balconies and windows, and the effectiveness of proposed screening measures have been considered. Visual privacy has been assessed having regard to the Apartment Design Guide, with these matters addressed in detail under the Key Issues - Visual Privacy and Rooftop Terrace sections of this report.

Bulk, Scale & Design Character (LEP Objectives & DCP Sections 2.3, 4.4)

Submissions argue the proposed building is too tall, deep, and close to boundaries. The 5-storey massing dominates the heritage terraces and is out of character with Dolphin Street. This creates an abrupt and unreasonable transition from single/two-storey dwellings.

Objection is raised regarding the submitted future street elevation (DA700) as misleading as it depicts Dolphin St as a continuous 17 m high streetscape and does not reflect current built form or likely future form. It is asserted the proposal does not meet the neighbourhood character (LEP clause 5.10 & DCP objectives). It is argued to disrupt the low-scale seaside character and does not contribute to a graduated height transition. A 5-storey built form is argued to not meet the desired future character.

Assessing Officer Comment

Submissions concerning excessive bulk and scale, streetscape character, transition to adjoining development and future character have been considered. These matters are addressed in the Key Issues sections of this report.

Inadequate Side Setbacks for a Five-Storey Building

Objection is raised regarding 2.0 m side setbacks, particularly along the eastern boundary adjoining the Brook Street terraces and the western boundary adjoining No.92 Dolphin Street. Objectors argue that these minimal setbacks are a direct cause of the key amenity impacts (overshadowing, privacy loss, visual bulk).

Assessing Officer Comment

The side setbacks have been reviewed and meet the side setback controls under Part C2 of RDCP. Notwithstanding, the amenity impacts of overshadowing, privacy and visual bulk have been assessed in the Key Issues section of the report. These are perceived as more of a consequence of excessive building height and FSR.

Heritage Impacts (LEP Clause 5.10)

Submitters argue that the Statement of Heritage Impact (SHI) does not assess rear curtilage relationships, spatial enclosure, scale comparisons or visual hierarchy. There is a focus on street views, ignoring the primary impact interface at the rear. It is argued the SHI Provides no evidence for claims of “no impact” and the building height and bulk overwhelm the terrace row (90–100 Brook St). The open rear setting, part of the heritage value, would be lost. It is claimed the consent authority cannot form the required “positive state of satisfaction” under LEP 5.10 or EP&A Act s4.15(1)(b).

Assessing Officer Comment

The concerns raised regarding impacts on the heritage significance and setting of the Brook Street terraces, including rear curtilage impacts and visual dominance, have been considered. Heritage impacts and the need for further visual information are addressed in the Key Issues - Heritage section of this report, with reference to the Heritage Planner’s referral in Appendix 1.

Flood Risk and Basement Issues

Submissions highlight the site lies in a major overland flow path as shown in the Coogee Bay Floodplain Risk Management Study with the basement entry located where flood waters accumulate.

Submitters argue the basement is inconsistent with floodplain risk management principles, underground parking is likely to flood extensively, and flood constraints should lead to less development, not more. Raising floor levels for flood planning is not justification for increasing overall height and should instead result in lost yield, not a taller building.

Assessing Officer Comment

Submissions relating to flood risk, basement design and floodplain management principles have been considered. Council’s assessment of flood impacts and the adequacy of the proposed flood mitigation measures are addressed under the Key Issues – Flooding section of this report, with further detail provided in the Development Engineering referral in Appendix 1.

Deep Soil (DCP Section 2.2.2)

Submissions argue there is non-compliance with deep soil requirements as deep soil is depicted above the basement slab. Landscaping proposed is therefore misleading and cannot mitigate bulk or privacy impacts.

Assessing Officer Comment

Concerns regarding the adequacy and location of deep soil and the achievability of the proposed landscaping have been considered. Deep soil provision, landscaping outcomes and tree viability are addressed in detail under the Key Issues - Deep Soil & Landscaping section of this report, with reference to the Landscape Officer referral in Appendix 1.

Parking, Traffic & Access

Objection is raised to zero visitor car spaces provided for 7 apartments with DCP requiring 1.75 visitor spaces. It is stated that the area is already under high parking pressure due to Coogee Beach, tennis club, the rugby club and bowls club. Submitters argue the lack of parking demonstrates overdevelopment.

Assessing Officer Comment

The proposal meets the applicable parking rate under the Housing SEPP. See Development Engineering referral in Appendix 1 for detail.

Amenity Impacts – Ventilation, Noise, Outlook

Submitters from No.106 Brook Street argue ventilation is impacted as their apartments rely on northern ventilation. The 5-storey building is claimed to block airflow, increasing internal heat and energy costs.

The proposed rear balconies are argued to cause noise spill, affecting enjoyment of backyards and living areas.

Submissions argue there is a loss of sky outlook which contributes to a sense of confinement and enclosure as a result of the building height and insufficient setbacks.

Assessing Officer Comment

The amenity concerns raised in submissions, including noise and visual bulk have been considered. These matters are addressed across multiple Key Issues section of the report. It is not considered that the proposed development will restrict airflow significantly to No.106 Brook Street. Loss of sky views is not a view loss issue, as views of the sky are not considered a view, but is considered an outcome of excessive visual bulk and impacts to the visual amenity of the neighbouring properties.

Examples & Comparisons Cited by Applicant

Submitters claim the following examples are not comparable:

- 56–58 Bream Street – corner lot, wider frontage.
- 30–32 Moore Street – three street frontages, only 4 units.
- 8 Ormond Gardens – refused, not precedent.

It is included that no valid precedent supports this scale on such a narrow, constrained site adjoining heritage items.

Assessing Officer Comment

Council concurs with the objections to the examples provided. 56-58 Bream Street is a corner lot with a wider frontage and presents as four (4) storeys to Bream Street. 30-32 Moore Street is not within the immediate vicinity and not a relevant example. 8 Ormond Gardens was refused by Randwick Local Planning Panel and then refused in the LEC.

Precedent Concerns

Submitters argue the proposal will have LGA-wide implications. Large portion of Randwick now falls within Accessible Area under the SEPP. Submitters assert this will trigger widespread up-scaling across low-density streets and undermine the strategic intent of the LEP. It is claimed the proposal will encourage further SEPP reliance and overdevelopment.

Assessing Officer Comment

The proposal seeks to exceed the Housing SEPP Infill affordable housing bonuses. The application has not demonstrated that the proposal meets the desired future character of the area.

6. Relevant Environment Planning Instruments**6.1. SEPP (Housing) 2021****Chapter 2 – Affordable housing**

Chapter 2, Division 1 of the Housing SEPP relates to development for the purpose of in-fill affordable housing. An assessment of the proposal against the relevant standards is provided in the table included in Appendix 4.

Chapter 4 – Design of residential apartment development

The provisions of the now-repealed SEPP 65, relating to the design of residential apartment development, have been transferred to Chapter 4 of the Housing SEPP.

Section 147 of the Housing SEPP states:

- (1) *Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*

- (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) *the Apartment Design Guide,*
- (c) *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

The DA was referred to the Design Excellence Panel (DEAP) for advice concerning the design quality of the development. The panel were supportive of the proposal subject to amendments to the massing, deep soil and neighbour privacy. A series of changes were recommended; these are provided in the detailed comments by the DEAP at Appendix 1.

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

An assessment against the Apartment Design Guide (ADG) is included in a compliance table at Appendix 3.

6.2. SEPP (Sustainable Buildings) 2022

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

6.3. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the Biodiversity and Conservation SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW.

Refer to comments by Council's Landscape Officer at Appendix 1 of this report.

6.4. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Chapter 4 of *State Environmental Planning Policy No. 55 (Resilience and Hazards)* applies to land that is contaminated or potentially contaminated. The purpose of this Chapter is to ensure that land is suitable for its proposed use and that contamination issues are appropriately identified and addressed prior to the granting of development consent.

The subject site has historically been used for residential purposes. However, the proposal involves extensive basement excavation, ground disturbance and removal of soil material in close proximity to boundaries, which has the potential to encounter contaminated material or mobilise existing contamination.

No Preliminary Site Investigation (PSI) or other contamination assessment has been submitted with the development application to demonstrate whether the site is suitable for the proposed residential flat building development. In the absence of a PSI, Council cannot be satisfied that the land is suitable for the proposed use, or that remediation is not required prior to commencement of development, in accordance with Chapter 4 of SEPP No. 55.

Given the scale of excavation proposed, including deep excavation for basement parking and associated retaining structures, the lack of contamination assessment represents a significant deficiency in the application. This prevents Council from undertaking a proper assessment of potential risks to human health, neighbouring land and the environment, and from determining whether suitable remediation measures would be required.

As a result, Council is not satisfied that the requirements of Chapter 4 of *State Environmental Planning Policy No. 55 (Resilience and Hazards)* have been met.

6.5. SEPP (Transport and Infrastructure) 2021

Pursuant to Clause 2.48 'Determination of development applications—other development', Council referred the application to Ausgrid for comment, as the proposal is likely to affect an electricity transmission or distribution network. See Appendix 1 for Ausgrid comments, who are supportive of the application, subject to conditions.

6.6. Randwick Local Environmental Plan 2012 (LEP)

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

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

The proposal is inconsistent with the specific objectives of the zone in that the proposed activity and built form will result in a scale, bulk and five-storey built form are not compatible with the desired future character of Dolphin Street and fail to adequately protect the amenity of neighbouring residential properties.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.9:1 + Housing SEPP bonus = 1.14:1 (614.2m ²)	1.31:1 (706.1m ²)	No
Cl 4.3: Building height (max)	12m + Housing SEPP bonus = 15.26m	17.46m	No

6.6.1. Clause 4.6 - Exceptions to development standards

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

6.6.2. Clause 5.10 - Heritage conservation

Clause 5.10 of RLEP 2012 applies as the subject site adjoins heritage items at Nos. 90–100 Brook Street. The proposed development has not demonstrated that it is sympathetic to, or conserves, the heritage significance or setting of these adjoining heritage items.

The scale, bulk and five-storey height of the proposal, including its massing and proximity to the heritage terraces, may visually dominate and diminish their low-scale residential setting. The proposal has not demonstrated that it responds to the form, scale or character that contributes to the heritage significance of the adjoining items.

Council's Heritage Planner has reviewed the proposal and raised concerns regarding its impacts on the setting and significance of the adjoining heritage items (refer Appendix 1). Having regard to this advice, Council is not satisfied that the proposal complies with the objectives or requirements of Clause 5.10 of RLEP 2012.

6.6.3. Clause 6.1 – Acid Sulfate Soils

Clause 6.1 of the *Randwick Local Environmental Plan 2012* the site is identified as potentially affected by acid sulfate soils and no investigation or management measures have been submitted. Council cannot be satisfied that excavation and earthworks can be undertaken without environmental harm.

6.6.4. 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 excavation with nil setbacks to boundaries and significant excavation depths. Council is not satisfied that the proposed earthworks would not have a detrimental impact on adjoining properties or land stability, having regard to the scale of excavation proposed and the advice of Council's Environmental Health team (refer Appendix 1). Accordingly, the proposal does not satisfactorily address the requirements of Clause 6.2 of RLEP 2012.

6.6.5. Clause 6.7 - Foreshore scenic protection area

The proposal is identified as "Foreshore scenic protection area" on the Foreshore Scenic Protection Area Map. Clause 6.7 of the LEP therefore applies:

- 1) *The objectives of this clause are as follows-*
 - a) *to recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,*
 - b) *to protect and improve visually prominent areas adjoining the coastal foreshore,*
 - c) *to protect significant public views to and from the coast,*
 - d) *to ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.*
- 2) *This clause applies to land identified as "Foreshore scenic protection area" on the Foreshore Scenic Protection Area Map.*
- 3) *Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development—*
 - a) *is located and designed to minimise its visual impact on public areas of the coastline, including views to and from the coast, foreshore reserves, open space and public areas, and*
 - b) *contributes to the scenic quality of the coastal foreshore.*

The proposed development would not unreasonably impact public views to or from the coast, having regard to its location and orientation. Accordingly, this clause does not form a determinative matter in the assessment of the application.

6.6.6. 6.8 Airspace operations

On 24 February 2026, Sydney Airport Corporation requested revised elevations with RLs shown. The Applicant provided these on the NSW Planning Portal on 2 March 2026. A response was not received.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	0.9:1 + Housing SEPP bonus = 1.14:1 (614.2m ²)	1.31:1 (706.1m ²)	91.9m ²	14.9%
CI 4.3: Building height (max)	12m + Housing SEPP bonus = 15.26m	17.46m	2.2m	14.5%

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 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 demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The applicant's written request seeks to justify the contravention of the Height of Buildings 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:

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

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

Despite the building height non-compliance, the proposal will comfortably fit in with the local area's character.

The building height departure is limited to the top of the lift overrun and the top part of the roof at the front of Level 4. The remainder of the development complies with the building height standard.

The components of the development that do not comply with the building height control (i.e. the top of the lift overrun and top part of the roof at the front of Level 4) are recessed and will not generate any adverse streetscape impacts.

The height of the built form is modulated with 4-storeys and a recessed 5th storey. The recessed nature of the upper level and recessed nature of the associated components which are above the height standard ensure that the built form will sit comfortably alongside other 4 and 5-storey residential flat buildings to the west and south respectively. Further nearby redevelopment of other properties in Brook, Bream and Dolphin Streets are of a similar scale with some comprising 5 storeys, also with affordable housing. On this basis, the proposed height variation will not generate any incompatibility with the desired future character.

The substantial separation distance to the eastern neighbouring heritage listed terraces also ensures that there will not be an incompatible outcome with these properties, noting

that these terraces are also adjoined by a 5-storey built form in close proximity on its southern side.

Adjoining the subject site to the west are a pair of semi-detached dwellings which could also be redeveloped in a similar manner to that proposed.

The proposed 5-storey scale of development is consistent with that which would be anticipated by the height limit associated with the 15.6m height that is generated by the SEPP height incentive. The SEPP provisions are considered to form part of the criteria which inform the desired future character.

Further to the south of the site are residential flat buildings and mixed-use developments along Brook Street. The proposed development will be compatible with development to the south which also consist of 4-5 storey built forms.

On this basis, the size and scale of development is compatible with the desired future character of the locality.

The objective is thereby satisfied despite the numeric variation.

Assessing officer's comment:

The applicant has not demonstrated that the proposed development is compatible with the desired future character of Dolphin Street. The proposed five-storey built form introduces a scale and intensity of development that is not reflective of the established or anticipated character of the street. On this basis, the proposal is not considering satisfactory.

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

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

Adjoining the site to the east are a row of semi-detached houses.

A Heritage Impact Statement prepared by Graham Hall and Partners Architects and Heritage Consultants is submitted with this application. The Heritage Impact Statement concludes the following:

"The proposal will have no impact on the heritage significance of the listed row of semi-detached houses, or any other listed item."

It is reiterated that the substantial separation distance between the proposed built form and the heritage listed terraces ameliorates the difference in scale between the respective forms.

The stepped nature of the built form and extent of articulation also assists in avoiding any detrimental visual impacts associated with the recessed elements over the height standard.

On this basis, the objective is satisfied despite the height variation.

Assessing officer's comment:

Notwithstanding the conclusions of the submitted Heritage Impact Statement, the proposed height and resultant bulk has not demonstrated compatibility with the low-scale form and setting of the adjoining heritage terraces. The extent of built form and its proximity may result in visual dominance when viewed in context, diminishing the heritage setting. See Appendix 1 – Heritage Planner comment.

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

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

The proposed exceedance of the height control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this height would not create additional benefit for adjoining properties or the locality.

Overshadowing: As demonstrated in the Shadow Diagrams submitted with this application, the components of the development that do not comply with the building height control (i.e. the top of the lift overrun and the top part of the roof at the front of Level 4) will not result in additional overshadowing to the adjoining properties to the south, east and west.

Adjoining the site to the east is a concrete driveway and the rear of 2 storey dwellings. The proposed development is setback 2m from the site's eastern boundary. The neighbouring driveway provides an additional approximately 6m building separation.

Due to the generous distance separation, the components of the development that do not comply with the building height control (i.e. the top of the lift overrun and the top part of the roof at the front of Level 4) will have limited overshadowing impacts on the building to the west in the morning only. Refer to the Shadow Diagrams submitted with this application.

View Loss: The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. The properties to the west are lower scale than proposed and thereby no coastal views to the east will be affected. On this basis, the elements over the height limit will not generate any adverse view impacts.

Privacy: The building height departure is limited to the top of the lift overrun and to the top part of the front of Level 4. The remainder of the development complies with the building height standard.

The top of the lift overrun will not result in any adverse privacy impacts to neighbouring properties.

The front of Level 4 that does not comply with the building height control, has been designed and sited to ensure adequate privacy to the adjoining properties in terms of location, orientation, internal layout and building materials used.

On this basis, the objective is satisfied notwithstanding the height variation.

Assessing officer's comment:

The proposed exceedance contributes to cumulative bulk, scale and amenity impacts that flow from the overall non-compliant form of the building. While certain elements are recessed, the proposal remains excessive in height and massing and exacerbates visual bulk, privacy impacts and overshadowing. The degree of non-compliance cannot be characterised as benign, and the objective is not satisfied.

In conclusion, the applicant's written request has not adequately demonstrated that compliance with the Height of Buildings development standard is unreasonable or unnecessary in the circumstances of the case.

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 Height of Buildings development standard as follows:

- *The building height departure is limited to the top of the lift overrun and to the top part of the front of Level 4. The remainder of the development complies with the building height standard.*
- *The 5-storey scale of development is consistent with that which would be anticipated by the height limit associated with the 15.6m height that is generated by the SEPP height incentive.*
- *The increase in height is due to the site being prone to flooding. Council has required the ground floor level to be raised to a minimum of 8.15m AHD. In doing so, the northern portion of level 4 has breached the height limit.*
- *The site falls approximately 2.53m from the rear south-western corner of the site (RL9.13) to the front north-eastern corner of the site (RL6.6). Greater excavation, therefore, occurs at the front of the site towards Dolphin Street.*
- *The building height variation is partly attributed to the latest BCA requirements, which require more floor-to-floor height (i.e. slab thickness) to achieve the ADG 3.2m ceiling height requirement.*
- *The components of the development that do not comply with the building height control have been recessed and will not generate any adverse streetscape, visual bulk or amenity impacts.*
- *Despite the building height non-compliance, the proposed height is compatible with neighbouring 4-5-storey buildings to the south and west. The bulk and scale of the proposal are compatible with the locality's existing and desired future character. Refer to the extract of the photomontage (refer Figure 8), which demonstrates that the proposed development is compatible with the height and bulk of buildings along the streetscape.*
- *The external facades are stepped and articulated to minimise the perceived bulk and scale of the building height non-compliance.*
- *The proposed exceedance of the height control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity, and a reduction in this height would not create additional benefit for adjoining properties or the locality.*
- *As demonstrated in the Shadow Diagrams submitted with this application, the components of the development that do not comply with the building height control (i.e. the top of the lift overrun and the top part of the roof at the front of Level 4) will not result in additional overshadowing to the adjoining properties to the south, east and west. Refer to the Shadow Diagrams submitted with this application.*
- *The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. The properties to the west are lower scale than proposed, and thereby, no coastal views to the east will be affected.*
- *The proposal includes a high-quality landscape design that includes planting a variety of trees, shrubs, and turf. Landscaping is provided within the front, side and rear setback areas on the Ground Floor, including a consolidated deep soil area at the rear of the site and planter landscaping along the northern, eastern and southern parts of levels 1 to 4. Refer to the Landscape Plan prepared by Tanya Wood Landscape Architecture submitted with this application. The proposed landscaping will enhance the amenity and visual setting of the proposed development and soften the visual built form of the proposal, notwithstanding the building height non-compliance.*
- *The proposal is consistent with the R3 Medium Density zone objectives and the building height objectives.*

- *The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represent the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EPCA Act, 1979).*

Assessing officer’s comment:

The departure arises from the scale and intensity of the proposal itself, rather than any inherent constraint of the land. The proposal has not demonstrated that compliance is unreasonable or unnecessary.

The matters raised by the applicant largely reiterate design justifications and claimed amenity impacts rather than identifying site-specific environmental planning grounds that warrant contravention of a fundamental development standard. Flood considerations, construction requirements and SEPP incentives do not, of themselves, justify exceeding the height control as proposed. The written request does not establish sufficient environmental planning grounds.

In conclusion, the applicant’s written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

Conclusion

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

7.2. Exception to the FSR development standard (Clause 4.4)

The applicant has calculated the proposal as having a gross floor area (GFA) that results in a floor space ratio of 1.14:1, and on that basis has asserted that the proposal complies with the maximum permissible FSR when applying the Housing SEPP affordable housing bonus. Accordingly, the applicant has not submitted a Clause 4.6 written request in relation to the FSR development standard.

Council’s assessment has determined that the applicant’s GFA calculations are understated. In particular, Council has identified that a number of areas have been excluded from the applicant’s GFA calculation that are required to be included when assessed against the definition of gross floor area under Randwick Local Environmental Plan 2012 and the Housing SEPP.

The areas identified by Council as requiring inclusion are nominated below (see Figures 20-25):

- Internal horizontal circulation areas that do not meet the definition of open breezeways;
- Internal walls associated with the private stair in Unit 07; and
- Basement areas that exceed the extent permissible to be excluded under the relevant controls.

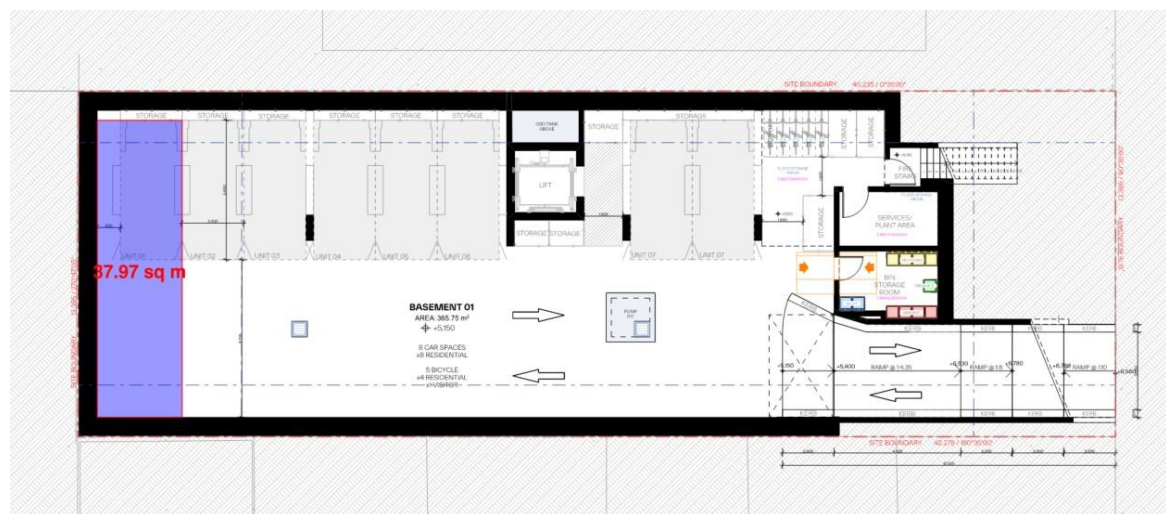


Figure 20: Council’s basement GFA inclusions/measurement.

D23/26

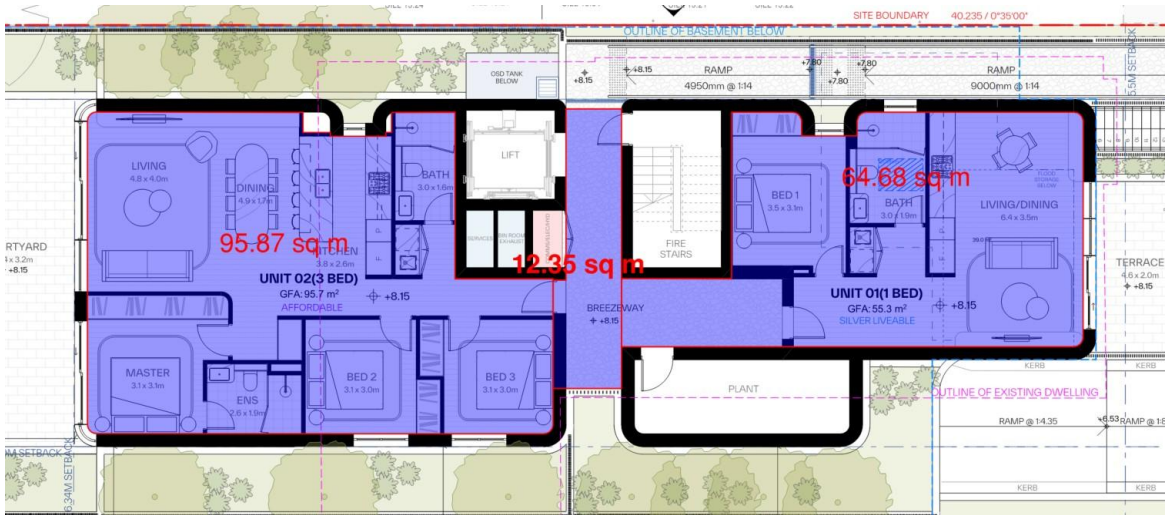


Figure 21: Council's ground level GFA inclusions/measurement.



Figure 22: Council's 1st level GFA inclusions/measurement.



Figure 23: Council's 2nd level GFA inclusions/measurement.



D23/26

Figure 24: Council’s 3rd level GFA inclusions/measurement.

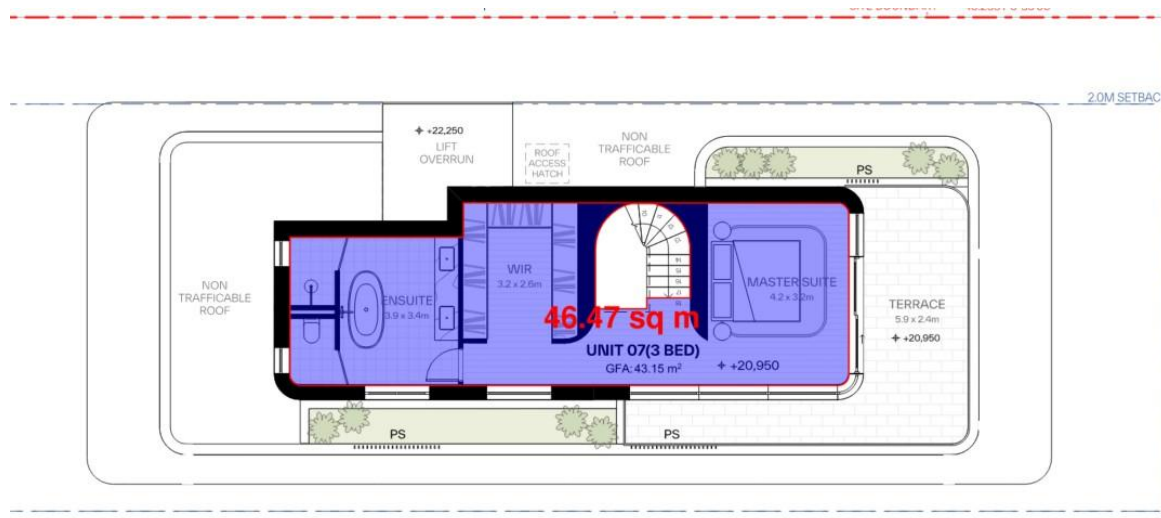


Figure 25: Council’s 4th level GFA inclusions/measurement.

When these areas are correctly included, Council has calculated a total gross floor area of approximately 706.1 m², which equates to a floor space ratio of 1.31:1. This exceeds the maximum permissible FSR of 1.14:1 (as increased by the Housing SEPP bonus) by approximately 91.9 m² of gross floor area.

As the applicant’s assessment relies on a lower GFA figure and asserts compliance with the FSR development standard, no Clause 4.6 written request has been provided to justify variation of Clause 4.4 of Randwick Local Environmental Plan 2012. On the basis of Council’s assessment, the proposal results in a material exceedance of the maximum permissible FSR, and the requirements of Clause 4.6 have not been satisfied.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

The relevant provisions of the DCP are addressed in Appendix 5.

Note: Clause 6A of SEPP 65 states:

- (1) *This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:*
 - (a) *visual privacy,*
 - (b) *solar and daylight access,*
 - (c) *common circulation and spaces,*
 - (d) *apartment size and layout,*
 - (e) *ceiling heights,*
 - (f) *private open space and balconies,*
 - (g) *natural ventilation,*
 - (h) *storage.*
- (2) *If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.*
- (3) *This clause applies regardless of when the development control plan was made.*

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

9. Environmental Assessment

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

Section 4.15 ‘Matters for Consideration’	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal fails to demonstrate compliance with the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 5 and the discussion in key issues below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> have been considered. As detailed elsewhere in this report, the requirements associated with Clause 4.6 written requests have not been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is inconsistent with the dominant residential character in the locality.</p> <p>The proposal will result in detrimental social impacts on the locality by impact residential amenity.</p>

Section 4.15 'Matters for Consideration'	Comments
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. However, having regard to the extent of excavation proposed, amenity impacts, environmental constraints, and the failure to demonstrate compliance with applicable planning controls, the suitability of the site for the proposed development has not been adequately demonstrated.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal does not promote the objectives of the zone and will result in adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.

D23/26

9.1. Discussion of key issues

Height of Buildings

Under RLEP 2012, the site is subject to a maximum building height of 12 metres pursuant to clause 4.3 and the Height of Buildings Map. The objectives of this development standard are to ensure that development is compatible with the desired future character of the locality, responds appropriately to its context, and does not result in unreasonable amenity impacts on adjoining land.

The State Environmental Planning Policy (Housing) 2021 allows an increase to the maximum building height where an infill affordable housing component is provided. Applying the applicable percentage bonus under the SEPP, the maximum permissible building height on the site is approximately 15.6 metres.

The proposed development has a maximum building height of approximately 17.4 metres, which exceeds both the LEP control and the maximum height achievable under the Housing SEPP bonus. This exceedance is not confined to minor roof elements or lift overruns, but manifests as a materially taller, five-storey built form that increases the overall bulk and scale of the development. In assessing the proposal against the objectives of clause 4.3 of the RLEP, the additional height contributes to a building form that is not compatible with the desired future character envisaged for the area. The scale of the proposal is substantially greater than that anticipated by the applicable height standard and is inconsistent with the prevailing character of development in Dolphin Street and its interface with adjoining residential properties.

The excessive height gives rise to amenity impacts that are specifically addressed by the objectives of the height control, including impacts relating to visual bulk, privacy and overshadowing. These impacts are experienced most acutely by neighbouring residential properties, including the Brook Street heritage terraces to the east and 90 Dolphin Street to the west. These are discussed in further detail under the relevant Key Issues below.

In addition, the height exceedance has implications for the heritage context of the site. The scale and vertical dominance of the proposed building diminish the low-scale character and rear setting of the adjoining heritage items at 90–100 Brook Street, contrary to the intent of the height control to ensure compatibility with contributory development near heritage items. Heritage impacts arising from the non-compliant height are addressed more fully in the Heritage Key Issue below.

Overall, the extent of the departure from the maximum building height, even with the application of the Housing SEPP bonus, is a fundamental aspect of the proposal and underpins many of the broader amenity, character and heritage issues identified in this assessment.

Floor Space Ratio (FSR)

Clause 4.4 of Randwick Local Environmental Plan 2012 (RLEP) prescribes a maximum floor space ratio of 0.9:1 for the site. This control is intended to ensure that development is compatible with the desired future character of the locality, responds appropriately to its context, and does not result in unacceptable amenity impacts on adjoining land, including impacts relating to visual bulk, privacy and overshadowing.

The Housing SEPP permits an increase in the maximum floor space ratio where a minimum proportion of affordable housing is provided. Applying the relevant bonus calculation under the SEPP, the maximum permissible floor space ratio for the site is 1.14:1, subject to accurate calculation of gross floor area (GFA) in accordance with the applicable planning controls.

While the submitted documentation indicates that the proposal achieves an FSR within this limit, Council's assessment identifies that the GFA has been under-calculated. In particular, a number of areas appear to have been incorrectly excluded from the GFA calculation, including:

- Internal circulation spaces at multiple levels;
- Wall and stair enclosures associated with vertical circulation; and
- Basement areas exceeding those permissible to be excluded under the Housing SEPP.

When these areas are properly included, the proposal has a floor space ratio of approximately 1.31:1, which exceeds the maximum achievable FSR even after application of the Housing SEPP bonus. This confirms that the proposal represents an overdevelopment of the site in terms of development intensity.

Assessing the proposal against the objectives of clause 4.4 of the RLEP, the excessive floor space directly contributes to a building form that is not compatible with the desired future character of the locality. The additional floor area increases the overall bulk and scale of the development beyond that envisaged by the planning controls.

The elevated floor space also has flow-on implications for residential amenity, including impacts associated with visual bulk, privacy, overshadowing and heritage setting, as additional floor area is accommodated through increased building height, depth and mass. These matters are examined in greater detail in the relevant Key Issues below.

In this context, the extent of the FSR exceedance is a fundamental aspect of the proposal and reinforces the conclusion that the development intensity exceeds that contemplated by the applicable controls, even when the policy intent of the Housing SEPP is taken into account.

Local Area Compatibility & Desired Future Character

The proposal has failed to demonstrate that it is compatible with the desirable elements of the character of the local area and the desired future character, having regard to section 20(3)(a) of the Housing SEPP and the planning controls that shape future development outcomes. These controls include the development standards in RLEP supported by the design principles in the ADG and relevant provisions of RDCP.

The character of the locality along Dolphin Street and its interface with Brook Street is defined by a generally mid-rise residential form with residential flat buildings limited to four (4) storeys. While change is anticipated, particularly through infill development, the planning framework anticipates that such development will remain within defined height and floor space limits, provide an appropriate transition to adjoining development, and protect residential amenity.

The proposed development, by reason of its non-compliance with the height of buildings and floor space ratio controls, and its associated departures from ADG and RDCP provisions, results in a scale and intensity of development that exceeds that anticipated for the site. These departures manifest in excessive bulk, limited landscape outcomes and amenity impacts for neighbouring properties. When considered cumulatively, the proposal does not demonstrate compatibility with either the existing character of the local area or the desired future character envisaged by the applicable planning controls.

Heritage

The subject site is not a listed heritage item; however, it directly adjoins locally listed heritage items at 90–100 Brook Street, comprising a consistent group of two-storey semi-detached dwellings. These heritage items derive significance from their scale, form and collective streetscape character, as well as their shared rear curtilage.

Clause 5.10 of Randwick Local Environmental Plan 2012, together with clauses 4.3 and 4.4, requires development on land in proximity to heritage items to be compatible with their scale, character and setting. The proposed development, by reason of its non-compliant height and associated bulk, raises concerns that it may visually dominate the adjoining heritage terraces, particularly when viewed from Brook Street and from the rear private open spaces of the heritage dwellings.

Council's Heritage Planner has identified that further information is required to fully assess the visual impact of the proposal on the heritage items. In particular, it is recommended that the Applicant provide photomontages from Brook Street and from the south-east corner of the Brook Street and Dolphin Street intersection, illustrating:

- a development scenario that complies with the applicable height controls; and
- the proposed development with the height exceedance.

This additional material is required to clearly demonstrate the extent of the visual and spatial impacts of the proposed height on the heritage items and their setting. Council's Heritage Planner referral is included in Appendix 1 of this report.

Excavation

The proposal includes substantial basement excavation across the site, including excavation to the eastern, western and southern boundaries with nil setbacks. Part C2, Section 4.12 of Randwick Development Control Plan 2013 seeks to limit the extent of excavation and requires excavation to be appropriately setback from boundaries to minimise impacts on adjoining properties, environmental processes and site stability.

The scale and depth of the proposed excavation significantly exceed these controls. The basement and associated sub-surface structures result in deep excavation well beyond what would ordinarily be anticipated for a site of this size and context. This level of excavation has implications for adjoining land in terms of structural stability, groundwater interaction, construction impacts and long-term site performance.

From a technical perspective, Council's Development Engineering assessment identifies that the geotechnical information submitted is limited to a desktop study. No detailed site investigation data has been provided, including borehole logs, in-situ testing, confirmation of groundwater levels or assessment of potential seepage conditions. This information is necessary to properly understand the site conditions and the impacts of the proposed excavation.

In the absence of a comprehensive geotechnical investigation, Council cannot be satisfied that the extent of excavation can be undertaken without unacceptable risk to adjoining properties or without causing adverse environmental or amenity impacts. The scale of excavation also has flow-on consequences for other aspects of the proposal, including deep soil provision and landscaping outcomes, which are addressed in the relevant Key Issues below.

Deep Soil & Landscaping

The provision of deep soil and landscaping is a key component of residential flat building design and is addressed through Part 3E (Deep Soil Zones) and Part 4O (Landscaping) of the Apartment Design Guide (ADG). These controls seek to ensure that development provides sufficient unencumbered soil volume to support viable tree planting, contribute to landscape character, and achieve positive amenity outcomes over the long term.

The subject site has an area of 538.8 m², requiring a minimum deep soil provision of approximately 7% of the site area (approximately 37.7 m²) to comply with the ADG. The proposal provides only approximately 22.43 m² of deep soil, equating to 4.18% of the site area, which is below the minimum requirement. This shortfall arises primarily from the extent of basement parking beneath the site.

As a result, no deep soil is provided within the rear setback, and the proposed tree planting in this area cannot be supported. In the front setback, the limited soil area does not provide sufficient soil volume to support the proposed street tree. These constraints significantly limit the capacity for meaningful tree planting and long-term canopy outcomes on the site.

In addition, no arboricultural assessment has been submitted to evaluate the viability of the proposed trees or the potential impacts of excavation on established trees located on adjoining land, particularly along the western boundary. Without this information, the long-term landscape outcomes and tree protection measures cannot be adequately assessed.

Council's Landscape Officer has identified these issues and raised concerns regarding the adequacy and achievability of the proposed landscape scheme. The Landscaping Officer referral is included in Appendix 1 of this report. Collectively, the insufficient deep soil provision, constrained soil volumes and lack of arboricultural information indicate that the landscape outcomes shown on the plans are not achievable and are inconsistent with the objectives of ADG Parts 3E and 4O.

Visual Privacy

Visual privacy is a key consideration for residential flat buildings and is addressed primarily through Part 3F (Visual Privacy) of the Apartment Design Guide (ADG), which applies pursuant to the Housing SEPP. These provisions seek to ensure that development minimises direct and oblique overlooking of neighbouring habitable rooms and private open space through appropriate building layout, orientation and screening.

The proposed development includes multiple private terraces and habitable room windows at Levels 01 to 04 that are oriented towards adjoining residential properties, including the Brook Street terraces and dwellings along Dolphin Street. These interfaces occur at relatively close proximity and elevate opportunities for overlooking as the building steps up from lower to upper levels.

Across Levels 01 to 03, a number of terraces incorporate partial privacy screens that do not extend along the full edge of the terrace. As a result, direct and oblique sightlines into adjoining private open space and rear living areas remain possible from several locations within the proposed development. In addition, a number of habitable room windows, including kitchen and dining areas, are oriented toward neighbouring properties, further contributing to visual interaction between dwellings.

While some privacy mitigation measures are proposed, the cumulative effect of terraces and windows across multiple levels results in an ongoing erosion of visual privacy for adjoining residents. The adequacy of the proposed screening to achieve the visual privacy outcomes anticipated by the ADG remains unresolved and would require further clarification and refinement.

Visual privacy impacts associated specifically with the rooftop terrace are addressed separately in the Rooftop Terrace Key Issue below.

Rooftop Terrace

The proposal includes a private rooftop terrace associated with Unit 07, located at the highest level of the building. While the terrace is private rather than communal, it is of a relatively large size and occupies a highly elevated position in close proximity to neighbouring residential properties.

Rooftop terraces are addressed under Part C2 of the Randwick Development Control Plan 2013, which requires such spaces to be appropriately designed to avoid unreasonable amenity impacts, including impacts associated with privacy, visual bulk and overlooking. Given the height of the building, the terrace has expanded sightlines over adjoining properties, including the Brook Street terraces and neighbouring dwellings along Dolphin Street.

The elevated position and size of the terrace give rise to visual privacy impacts, as occupants would have direct and oblique views into neighbouring private open spaces and habitable rooms. While privacy screening is proposed, additional measures necessary to fully address overlooking would likely increase the perceived bulk and visual prominence of the uppermost level, reinforcing concerns regarding the scale of development at roof level.

The rooftop terrace also has potential acoustic implications, given its elevated and external nature; however, these matters are addressed separately in the Acoustic Impacts Key Issue below.

Overall, the location, scale and design of the private rooftop terrace contribute to unresolved amenity impacts and form part of the broader concerns associated with the upper levels of the development.

Acoustic Privacy

The potential for acoustic impacts arising from the proposed development is a relevant consideration, particularly given the increase in residential density, the provision of multiple private terraces (including a large rooftop terrace for Unit 07), lift services and building plant.

The Environmental Health Team has identified that no Acoustic Assessment Report has been submitted with the application. In the absence of this information, it has not been demonstrated that internal acoustic amenity for future residents or noise impacts on adjoining properties can be appropriately managed or mitigated.

Without an acoustic assessment, Council is unable to determine whether noise impacts associated with apartment use, terraces, lifts and any mechanical plant would be acceptable or comply with relevant standards. The Environmental Health Team has outlined the specific acoustic information required to enable proper assessment.

Further detail regarding the acoustic matters raised, including the required scope of acoustic reporting, is provided in the Environmental Health referral included in Appendix 1 of this report.

External Wall Height

External wall height is addressed under Part C2 of the Randwick Development Control Plan 2013, which seeks to manage building bulk and articulation and to ensure development responds appropriately to the surrounding streetscape and adjoining residential properties.

For sites subject to a 12-metre LEP height limit, Part C2 identifies a maximum external wall height of approximately 10.5 metres as a benchmark to ensure that upper levels are suitably set back and articulated. The proposed development includes external wall heights of approximately 14 metres, which represents a significant departure from this control.

While closely related to the overall building height, the excessive external wall heights contribute independently to the visual bulk and dominance of the building, particularly when viewed from adjoining properties. The extended wall planes reduce articulation, increase the perception of massing and exacerbate amenity impacts, including privacy and overshadowing.

This non-compliance reinforces the broader concerns identified in relation to building height, bulk and scale, and local character, and contributes to the cumulative adverse impacts of the proposal when assessed against the applicable planning framework.

Solar Access & Overshadowing

Solar access to neighbouring dwellings is addressed through Randwick Development Control Plan 2013 and the Apartment Design Guide (ADG), which seek to ensure that reasonable levels of sunlight are maintained to living areas and a portion of private open space at mid-winter. These controls reflect the importance of protecting residential amenity as development intensity increases.

The submitted solar access diagrams do not clearly demonstrate that adjoining properties, particularly the Brook Street heritage terraces, retain adequate access to sunlight. In particular, the material provided does not satisfactorily confirm that at least 50% of the private open space of these dwellings receives a minimum of three hours of direct sunlight on 21 June. The solar access information submitted with the application does not fully model existing site conditions. In particular, the shadow diagrams do not include boundary fencing associated with the Brook Street terrace properties and do not clearly reflect level differences between the subject site and the adjoining landscaped areas. These elements influence existing winter solar access and are necessary to establish baseline conditions.

With respect to 90 and 92 Dolphin Street, the application has not adequately demonstrated that acceptable solar access outcomes are achieved. The solar diagrams do not fully account for the cumulative built form context, including the existing four-storey residential flat building at 88 Dolphin Street, particularly in the assessment of afternoon overshadowing.

The extent and duration of overshadowing impacts are exacerbated by the non-compliant height and bulk of the proposed development. These impacts are directly linked to exceedances of the height of buildings and floor space ratio controls discussed earlier and contribute to the erosion of residential amenity for adjoining properties.

Overall, the solar access information provided does not sufficiently demonstrate that reasonable sunlight outcomes would be maintained for neighbouring dwellings, and the proposal raises ongoing concerns in relation to overshadowing and amenity consistent with the broader issues arising from the scale of development.

View Loss

The potential impact of the proposed development on views enjoyed by neighbouring properties is a relevant amenity consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979*, particularly where increased height and bulk may affect outlook from adjoining residential flat buildings.

The site directly adjoins an existing four-storey residential flat building at 88 Dolphin Street, immediately to the west. Given the proposed five-storey height and increased bulk, the development has the potential to affect outlook and views from apartments within this building, particularly from upper-level habitable rooms and balconies.

No view analysis or assessment has been submitted with the application to identify existing views from 88 Dolphin Street, the extent of potential view loss, or whether the proposed building envelope has been designed to minimise impacts on neighbouring outlook. In the absence of this information, the impact of the proposal on views enjoyed by the adjoining apartment building has not been adequately demonstrated or addressed.

Accordingly, Council is unable to fully assess whether the proposal achieves an appropriate balance between development potential and the protection of neighbouring residential amenity in relation to view sharing, noting that these impacts arise in the context of the proposal's non-compliant height and bulk.

Flooding

The subject site is identified as being affected by flooding, and the proposed development includes a basement car park and driveway access that must be designed to accommodate flood risk in accordance with Council's flood planning controls.

Council's Development Engineering Team has raised concerns regarding the proposed flood management approach, including reliance on a flood gate and a driveway crest level that is below the level required by Council's controls for underground car parks on flood-affected land. These matters raise questions about the effectiveness, safety and long-term reliability of the proposed flood mitigation measures.

Given the scale of excavation and the basement configuration, Council is not satisfied that acceptable flood management outcomes have been demonstrated. The Development Engineering referral outlining these concerns is included in Appendix 1.

Contamination & Acid Sulfate Soils

The proposal involves a significant intensification of land use and substantial basement excavation, requiring careful consideration of site suitability in relation to contamination and acid sulfate soils.

Council's Environmental Health Team has identified that no Preliminary Site Investigation has been provided to assess the potential for land contamination, and no Preliminary Acid Sulfate Soils Assessment has been submitted, despite the site being identified on the relevant mapping. In the absence of this information, it has not been demonstrated that the land is suitable, or can be made suitable, for the proposed residential use.

As a result, Council is unable to fully assess the environmental risks associated with excavation and ongoing site use. The Environmental Health referral detailing the required investigations is included in Appendix 1.

10. Conclusion

That the application for demolition of existing building/structures, tree removal and construction of a 5-storey residential flat building comprising seven (7) x apartments (2 x 3-bedroom, 4 x 2-bedroom, 1 x 1-bedroom) and a single basement level for eight (8) car parking spaces, associated ancillary and landscaping works, and Strata subdivision be refused for the following reasons:

1. Pursuant to section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the following provisions of the *Randwick Local Environmental Plan 2012* (RLEP 2012):
 - a. Pursuant to clause 2.3 of RLEP 2012, the proposed development is inconsistent with the objectives of the R3 Medium Density Residential zone. The scale, bulk and five-storey built form are not compatible with the desired future character of Dolphin Street and fail to adequately protect the amenity of neighbouring residential properties.
 - b. Pursuant to clause 4.4 of RLEP 2012, the proposed development does not comply with the maximum floor space ratio development standard. The extent of the exceedance results in an overdevelopment of the site and a built form that is excessive in scale and intensity.
 - c. Pursuant to clause 4.3 of RLEP 2012, the proposed development does not comply with the maximum building height development standard, even after applying the applicable incentive under the State Environmental Planning Policy (Housing) 2021. The resulting five-storey built form is excessive and incompatible with the character of the locality.
 - d. Pursuant to clause 5.10 of RLEP 2012, the proposed development has not demonstrated that it is compatible with the scale, character or setting of the adjoining heritage items at 90–100 Brook Street. The excessive height and bulk would visually dominate and diminish the heritage context.
 - e. Pursuant to clause 6.1 of RLEP 2012, the site is identified as potentially affected by acid sulfate soils and no investigation or management measures have been submitted. Council cannot be satisfied that excavation and earthworks can be undertaken without environmental harm.
2. Pursuant to section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the following provisions of the State Environmental Planning Policy (Housing) 2021:

- a. Pursuant to section 20(3)(a), the proposed development fails to demonstrate compatibility with the desirable elements of the character of the local area or the desired future character, having regard to its excessive scale and intensity.
 - b. Pursuant to Chapter 4 of the Housing SEPP and the Apartment Design Guide, the proposed development does not comply with the deep soil zone requirements. Extensive basement coverage prevents the provision of the minimum deep soil area required to support substantial planting and meaningful landscaping outcomes.
3. Pursuant to clause 4.6 of RLEP 2012 and section 35B(2) of the *Environmental Planning and Assessment Regulation 2021*:
 - a. No written request has been submitted to justify contravention of the floor space ratio development standard. In the absence of a valid Clause 4.6 written request, the consent authority is not empowered to grant consent.
 - b. The written request submitted to justify contravention of the building height development standard fails to demonstrate that compliance with the standard is unreasonable or unnecessary and fails to establish sufficient environmental planning grounds to justify the extent of the exceedance.
4. Pursuant to section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following provisions of the Randwick Development Control Plan 2013 (RDCP 2013):
 - a. Pursuant to Part C2, Section 5.1 of RDCP 2013, the submitted solar access information does not accurately reflect existing site conditions. Council cannot be satisfied that reasonable solar access to neighbouring properties will be maintained.
 - b. Pursuant to Part C2, Section 4.4 (External Wall Height) of RDCP 2013, the proposed development exceeds the maximum external wall height control. The non-compliance contributes to excessive bulk and exacerbates amenity impacts on adjoining properties.
 - c. Pursuant to Part C2, Section 4.12 of RDCP 2013, the extent of basement excavation, including nil setbacks and excessive excavation depths, is unjustified and results in unacceptable bulk, site stability concerns and impacts on adjoining land. In the absence of an arborist report assessing impacts on trees located on adjoining land, Council cannot be satisfied that excavation and construction works will not adversely affect adjoining trees.
 - d. Pursuant to Part C2, Section 5.4 of RDCP 2013, no acoustic assessment has been submitted. Council cannot be satisfied that noise impacts, including those associated with the rooftop terrace, will not unreasonably affect adjoining residential properties.
 - e. Pursuant to Part C2, Section 5.5 of RDCP 2013, no detailed view sharing analysis has been provided for assessment of impacts to western neighbouring properties.
5. Pursuant to section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.

Appendix 1: Referrals

1. Design Excellence Panel Comments

Randwick Design Excellence Advisory Panel

Final Endorsed Comments



DA INFORMATION	
Application Number	DA/65/2026
Address	94 Dolphin St COOGEE NSW 2034
Meeting Date	16 March 2026
Panel Members	Aldo Raadik, Linda Gosling (chair), Connie Argyrou
Report Date	23 March 2026

INTRODUCTION

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

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

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

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

PANEL COMMENTS

The panel has highlighted the following to be addressed prior to any approval.

1. Context and Neighbourhood Character
 - a. The proposal is for a 5 storey RFB on a narrow lot close to the rear of 6 heritage items (terraces).
 - b. The surrounding developments are a mix of detached cottages and 3-5 storey RFBs, with the desired future character, as determined by current LEP zoning, being 4 storey RFBs (5 if affordable housing is included).
 - c. Nearby are extensive public open spaces, including Coogee Oval and Coogee Beach to the south-east.
2. Built Form and Scale
 - a. The proposal's front terraces are progressively stepped back from the street by c 2m at L3 and L4, (not dimensioned), so that the massing when viewed from the street is similar to the older 3 storey RFB up the street. The Panel supports this approach.

- b. This stepping back would be more effective, especially in regards to the proposal's visual impact on the heritage terrace sides, if the roof overhangs to both levels were reduced to the minimum for summer shading. In addition, darker soffits and darker cladding to the top level would make it more recessive.
 - c. The applicant needs to check with Council as to the flood barrier height (crest) in the driveway, which may be too low (Council indicates an RL of 7.95) – this may affect the Ground Floor building layout.
 - d. The height breach should be minimised by relocating plant to the Basement and ground floor, and reducing the Basement height if possible, noting that a pump room may be required by the BCA for sprinklers to side openings. The top floor height, accommodating only the Master bedroom, could also be reduced.
3. Density
- a. The higher density and height of the proposal adjacent to the 2 storey Heritage Items to the east is acceptable to the Panel due to: the stepping building form, to other 5 storey buildings being in the vicinity, to the desired future character, to the different orientation of the proposal (to Dolphin St rather than Brook St), and to the visual separation afforded by the Right of Carriageway to the rears of the terraces. This is on the provision that the above suggested massing reduction measures are delivered.
4. Sustainability
- a. The Panel recommends that provision is made for Electric vehicle charging in the Basement, and that rainwater is captured for irrigation
5. Landscape
- a. Lack of deep soil to sides and rear will severely limit landscaping and the extent of tree canopy on the site, as well as limit side screening. The Housing SEPP requires a deep soil provision of 15% of the site area, and the ADG 7%.
 - b. The Panel recommends reducing the basement length by 1 carspace to provide rear deep soil, and stepping down the basement slab to both sides for 800mm min depth of soil, as advised by the ADG Section 4P for medium trees.
 - c. Excavation as proposed will impact the neighbouring trees in the SW site corner – another reason to remove 1 carspace in the Basement. An arborist's report may be required.
 - d. Similarly, the front setback needs re-organising so that hardscapes are minimised. The Panel recommends that Unit 01 terrace does not have stairs and gate to the street, and that the FHB is relocated to have less impact on landscaping. In this regard, the Landscape and Architectural plans need co-ordinating – see Housing Diversity below re ramps.
 - e. The OSD tank could be moved to under the ramp, in order to increase landscaping.
 - f. The planting bed along the ramp on the Ground Floor may not be viable at only c 300mm wide.
6. Amenity
- a. The Privacy to both neighbours' windows needs more consideration in this dense context with only 2m side setbacks. The Panel recommends privacy screens to Units 4 and 6 Kitchen windows, to the Lobby facing west and Unit 7 Living room facing east on Level 3, and to extend the privacy screen on Level 4 to cover all glazing facing east – while less east facing glazing and extent of Terrace to the Master bedroom on this level would mitigate privacy/night lighting impacts on the Brook St terraces.
 - b. The extent of privacy screening to terraces and Lobby facing east on Level 2 should be repeated on Level 3, as privacy issues remain the same.
 - c. The views from upper levels of 88 Dolphin St may be impacted. The applicant needs to test this.
7. Safety
- a. Ground floor outdoor areas need to be allocated to units for both privacy and security. Fencing details are required that demonstrate this.

- b. Consideration needs to be given as to how planters around the building at the upper floors will be maintained.
8. Housing Diversity and Social Interaction
 - a. The applicant needs to check the Ground Level ramp design to ensure it meets accessible standards as well as achieves the min ground floor habitable flood level. – this may affect layouts of each floor.
 - b. The Panel agrees that Common Open Space does not need to be provided in this well located site. A clear plan of common garden ownership and maintenance accessibility is required.
 9. Aesthetics
 - a. The western façade, which is only c 3.5m away from the east façade of 90-92 Dolphin St, would be relieved by having the Lobby screen indented at Levels 1, 2 and 3, as it is on the east façade, if the fire stair can be reconfigured.

SUMMARY

The Panel supports this proposal if massing, deep soil and neighbour privacy are improved, and recommends that changes be made as described above.

It is also recommended that Council receive the following from the applicant, to better assess the proposal:

- survey and arborist report showing tree details including TPZ and SRZ
- Visual impact assessment on 88 Dolphin St
- A 3D view from Dolphin St that includes the side of the heritage terraces
- Compliance details for BCA and accessibility, as these may affect the design.
- Fencing and retaining wall details, and ground levels along boundaries showing interface with neighbouring properties
- Privacy screen details

2. External referral comments:

2.1. Ausgrid

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



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

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

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

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

Ausgrid Overhead Powerlines are in the vicinity of the development.

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

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

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

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

New Driveways - Proximity to Existing Poles

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

For Official use only

New or modified connection

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

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

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

Regards,
Ausgrid Development Team

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D23/26

- 2.2. **Sydney Water** - Section 78 of the Sydney Water Act 1994, must notify Sydney Water when a development proposal could impact Sydney Water assets or operating systems

D23/26



26 February 2026

Our reference: N/A

Thomas Awford
 Randwick City Council
 thomas.awford@randwick.nsw.gov.au

RE: Development Application DA/65/2026 at 94 Dolphin Street, Coogee (A-115161/CNR-92079)

Thank you for notifying Sydney Water of DA/65/2026 at 94 Dolphin Street, Coogee, which proposes the demolition of existing structures, and construction of a residential flat building with seven units and an underground car park. Sydney Water has reviewed the application based on the information supplied and provides the following Sydney Water requirements to assist in understanding the servicing needs of the proposed development.

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

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



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

If you require any further information, please contact the Growth Analytics Team at urbangrowth@sydneywater.com.au.

Yours sincerely,

Growth Analytics Team

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

Enclosed:

- Sydney Water Development Application Information Sheet (for proponent)

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



Attachment 1 – Recommended Development Conditions

Prior to the issue of an Occupation/Subdivision Certificate:

Section 73 Compliance Certificate

A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Our assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to our mains. The compliance certificate also identifies any applicable Infrastructure Contribution charges. Make an early application for the certificate, as there may be assets to be built and this can take some time. A Section 73 Compliance Certificate must be obtained before an Occupation or Subdivision Certificate will be issued.

Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to the Sydney Water website or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

Prior to the issue of a Construction Certificate/Complying Development Certificate:

Building Plan Approval (including Tree Planting Guidelines)

The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to [Sydney Water Tap in®](#) to apply.

Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

Tree Planting

Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the Sydney Water Act specifies what might occur when there is interference or damage to our assets caused by trees.

For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the Sydney Water Act 1994, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within Sydney Water's [Technical guidelines – Building over and adjacent to pipe assets](#).

Sydney Water Corporation ABN 49 776 225 038

2 Parramatta Square, 1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124

Telephone 13 20 92 sydneywater.com.au





Sydney Water Development Application Information Sheet for Proponent

D23/26

Sydney Water has provided advice to the Department/Council on your proposed development. Further steps are required before Sydney Water connections and final approvals can be granted. Without relevant Sydney Water approval, your Subdivision Certificate, Occupation Certificate or Construction Certificate, may not be issued. Please read the information below to assist with your development. Further information can also be found on our [website](#).

Building Plan Approval

Why have I been advised a Building Plan Approval is required?

Demolition, excavation, construction or modification to existing buildings and structures all have the potential to damage or limit access to our water, wastewater or stormwater services. That's why we need to review and approve your building plans before you start any work. In many cases, you need a Building Plan Approval before council can allow you to start demolishing or constructing.

How do I apply for a Building Plan Approval?

The approved plans must be submitted to the Sydney Water [Tap in](#)® online service to determine whether the development will affect any Sydney Water wastewater, water, stormwater mains and/or easement, and if further requirements need to be met.

Sydney Water recommends you apply for Building Plan approval early as in some instances a detailed engineering assessment would be required when building over or near our critical assets. This can be a lengthy process and may also impact development designs.

You will be required to pay Sydney Water for the costs associated with any detailed review.

Section 73 Compliance Certificate

Why have I been advised a Section 73 application is required?

If you are developing or subdividing land and needing water or wastewater, you may need to apply for a Section 73 Compliance Certificate before council can issue an Occupation or Subdivision Certificate.

If we have noted a requirement for a Section 73 Compliance Certificate in our advice to Council, one must be obtained from Sydney Water under the *Sydney Water Act 1994*. These include secondary homes or granny flats in an area with Priority Sewerage Scheme or with a GFA greater than 60 m².

How do I apply for a Section 73 Compliance Certificate?

You can choose to use a water servicing coordinator for works of any size. If you only have minor works, you can apply directly through Sydney Water Developer Direct.

We suggest you lodge an early application for the certificate, as there may be additional connections or pipes to be built or additional steps to protect our existing assets. This can also impact other services, buildings, driveways, or landscape designs.



sydneywater.com.au

1 of 5

Development Application Information Sheet V9
January 2026





D23/26

Feasibility

Why have I been advised to carry out a Feasibility enquiry?

If the development presents potentially large water servicing demands on drinking water, wastewater, recycled water and stormwater where applicable or asset impacts are anticipated, further investigation may be required to determine the servicing requirements for the site.

It is recommended that a Water Servicing Coordinator is engaged to also ensure early discussion on your proposed development so it is considered in any potential planning that we might be undertaking. We advise you do this as soon as possible to prevent potential delays to your development approvals or servicing.

How do I apply for a Feasibility?

To apply for a Feasibility, you will need to contact a Water Servicing Coordinator. Tell them you have been advised to lodge a Feasibility as part of your development application.

Growth Data Form

Why do I need to complete a Growth Data Form as part of the Feasibility application?

If you have been requested to provide growth data, it is likely your planning proposal may lead to development with significant servicing needs, especially or in areas not previously identified for substantial growth.

To ensure thorough servicing advice and explore staged servicing options, we need anticipated growth data and **indicative** development staging, including yield per stage, as specified in the Growth Data Form in Appendix 1 of this information sheet.

Infrastructure Contributions

What are infrastructure contributions?

Infrastructure contributions are a payment towards the cost of infrastructure needed to provide water-related services.

How do infrastructure contributions impact me?

Infrastructure contributions are payable for all properties that connect or upgrade a connection to our systems. The contributions are being gradually reintroduced such that they were capped at 25 percent in 2024-25 and 50 percent in 2025-26, with full contributions payable from 1 July 2026 onwards, in line with a transition plan approved by the NSW Government.

You can find more information on infrastructure contributions at [Land development](#).

I am building in the Western Sydney Aerotropolis Precincts. How does this impact me?

The NSW Government has appointed Sydney Water as the Regional Stormwater Authority in the initial Western Sydney Aerotropolis precincts, including the Mamre Road Precinct.

If you are building in the Aerotropolis Initial Precincts, you will be required to pay infrastructure contributions towards Sydney Water's stormwater and recycled water servicing. The estimated amount of contributions for stormwater and recycled water servicing will be provided at the Notice of Requirements issued during the Section 73 application.

You can find more information on Mamre Road and Aerotropolis Infrastructure Contributions at [Mamre Road and Aerotropolis development](#).



sydneywater.com.au

2 of 5

Development Application Information Sheet V9
January 2026





Water Servicing Coordinator

What is a Water Servicing Coordinator?

Water Servicing Coordinators are accredited providers who can manage your Sydney Water applications for you.

They can design new pipes, manage applications for Section 73 Compliance Certificates and Feasibilities, applications for approval to move or extend our pipes, design and construction of new pipes, and applications for approval to build over or next to assets.

All Water Servicing Coordinators have designer accreditation and can provide design services.

How do I find a Water Servicing Coordinator?

Please follow this link to find a list of Water Servicing Coordinators: [Water servicing coordinators](#)

Trade wastewater for business customers

I am a business customer and my development may generate commercial or industrial trade wastewater. What do I do?

If your development is going to generate trade wastewater, you must have written approval to connect your business to our network, and properly install and maintain appropriate treatment equipment before any business activities can commence. It is illegal to discharge trade wastewater into the Sydney Water sewerage system without permission.

How to apply for approval to discharge?

Complete an application for connection to discharge trade wastewater at Sydney Water [Tap in®](#) or contact businesscustomers@sydneywater.com.au for further information.

Data Centres

What is a Data Centre?

According to the *Local Environmental Plan Standard Instrument*, data centre means a building or place the principal purpose of which is to collect, distribute, process or store electronic data using information technology.

Refer to Appendix 2 for Sydney Water's requirements for Data Centre applications regardless of the approval pathway undertaken.

Capacity

Water service availability may change with development and demand. Sydney Water does not reserve capacity in advance, so proponents should apply for a Section 73 Compliance Certificate as early as possible.

Quick Links

[Building plan approvals](#)

[Section 73 Compliance Certificates](#)

[Steps for first time developers](#)

[Water servicing coordinators](#)

[Land development](#)

[Managing trade wastewater](#)

[Growth Servicing Plan](#)

[Mamre Road and Aerotropolis development](#)





Appendix 1. Example of a growth data form

The following is an example of the level of intel that we require to assess the potential staging and phasing of asset upgrades. We acknowledge that this information is an indication only and is provided as a guide to assist Sydney Water to provide more nuanced feasibility or servicing advice. We note that timescales are often subject to developer intent/demand and approval timescales. Sydney Water uses the information at its own risk.

Anticipated growth timescales													
Project name:	Address:		Sydney Water Ref. Number and DA Ref Number:										
Development Type	Ultimate growth (additional)	Total # stages	2027	2028	2029	2030	2031	2032	2033	2034	2035	2037	Continue as required
Example (dwelling multi)	2050	5	0	0	350	350	500	500	350	0	0	0	
Example (job number)	1600	6	0	200	200	300	300	300	300	0	0	0	
Dwellings (single)													
Dwellings (multi)													
Jobs (number)													
Jobs (GFA)													



Development Application Information Sheet V9
January 2026

sydneywater.com.au
4 of 5



Appendix 2. Data Centres

What is required by Sydney Water when developing a Data Centre?

Due to the significant water consumption used by data centres, Sydney Water requires the following information to be submitted to progress all data centre applications regardless of the approval pathways undertaken.

Required information	Details
Water service demands	<p>Water service demands following servicing investigations and demonstrate that satisfactory arrangements for drinking water, wastewater, and recycled water or non-potable water services have been made. This should be progressed via a Sydney Water Feasibility application.</p> <p>The following information is required:</p> <ul style="list-style-type: none"> i. Staging of developments showing yearly <ul style="list-style-type: none"> 1. Average Day Demand 2. Maximum hour demand (to understand impact on the network during peak hour) 3. High demand days (e.g. 95th percentile or those high demand 5 to 10 days per year) 4. Maximum daily demand (Peak day - 1 in 10 year) ii. One of the following (for ultimate development as a minimum) <ul style="list-style-type: none"> 1. Expected daily usage over a year 2. Expected monthly average daily usage over a year iii. Daily diurnal usage based on a high demand day. The preferred usage pattern should reflect the draw from Sydney Water’s mains and not the internal usage. However, understanding the internal water usage can provide insight to Sydney Water on potential draws from the system and demonstrate that the applicants have leveraged water efficiency opportunities and recycling within their operation as appropriate.



Development Application Information Sheet V9
January 2026

sydneywater.com.au
5 of 5



2.3. Sydney Airport Corporation

Sydney Airport Corporation requested revised elevations with RLs shown. The Applicant provided these on the NSW Planning Portal on 2 March 2026. A response from Sydney Airport Corporation was not received.

3. Internal referral comments:

3.1. Development Engineer

Flood Management

The "Flood Report" issued by Randwick City Council, dated 16/10/2025, states that the site is inundated by flooding. The level of flooding within the site is depicting in the following table taken from the flood report:

Calculated Flood Depth Flood Report Refund Requests for Approval

Flood Event	Flood Depth (m)	Flood Level (mAHD)
PMF	2.36	9.06
1% AEP Flood	0.90	7.65
5% AEP Flood	0.61	7.29

Table B, Section 5.5, Part B8, Council's DCP states that "all driveways" for an "underground car park (where floor level is more than 0.8m below surrounding ground level)" must be designed to the "1% AEP plus 0.3m freeboard at its highest point". Without the use of a flood gate, the driveway crest must be designed to RL7.95m AHD.

The development is proposing the use of a flood gate with a driveway crest at RL6.78. Development Engineering has serious concerns on the effectiveness of this flood gate in withstanding the sheer amount of water force that would be acting against the flood gate during a severe storm event. Additionally, the flood gate would be activated during the 5% AEP flood event which would occur more frequently than the 1% AEP flood event. This means that the flood gate would see substantial usage more frequently than usual which raises a concern on the maintenance of the system.

Due to the design of the driveway and flood gate, Development Engineering cannot support the development's flood management design.

Geotechnical

The submitted Geotechnical Report is a desktop study and is not sufficient for assessment. A full Geotechnical Report must be submitted with Development Applications for residential flat buildings. The report must specifically include, but is not limited to, the following information:

Borehole (BH) or Dynamic Cone Penetration (DCP) logs

The presence of any site seepage/groundwater

The level and characteristics of the water table

Due to the lack of geotechnical information, Development Engineering cannot carry out assessment of the proposed development.

Parking Provision and Layout

- As per clause 19(2)(e) and (f) of the SEPP Housing, the amount of off-street parking required for the site is 7 spaces. The development proposes 8 car spaces.
- Under the SEPP, visitor parking is not required. Subsequently, no visitor parking has been proposed.
- Under Council's DCP, 0 (rounded down from 0.35) motorcycle spaces are required. Subsequently, no motorcycle parking has been proposed.
- As per Council's DCP, 4 (rounded up from 3.5) bicycle spaces are required for residents. Similarly, 1 (rounded up from 0.7) bicycle space is required for visitors. The development proposed 4 resident bicycle spaces and 1 visitor bicycle space.

- AS/NZS 2890.1:2004 states that the minimum headroom clearance required is 2.20m. Headroom clearance in the basement has been designed to 2.75m with the basement opening designed with 2.31m clearance.
- The submitted Transport Impact Statement states that the development will include:
 - 1 x 1-bedroom unit (standard)
 - 1 x 2-bedroom unit (affordable)
 - 4 x 2-bedroom units (standard)
 - 1 x 3-bedroom unit (standard)
- The correct tally of units is as follows:
 - 1 x 1-bedroom unit (standard)
 - 1 x 3-bedroom unit (affordable)
 - 4 x 2-bedroom units (standard)
 - 1 x 3-bedroom unit (standard)

Stormwater Management

- On-site detention is generally not required for the site unless the discharge to the kerb and gutter exceeds 25 litres/s for the critical 20-year ARI design storm (refer to section 3.1 of Council's "Private Stormwater Code").

Waste Management

- As per Council's "Waste Management Plan for Proposed Developments", 4 garbage bins, 4 recycling bins and 1 FOGO bin are required for the development. The proposal shows this arrangement of storage bins.
- Similarly, storage of bulky waste is required, and the development has proposed this.
- The submitted Waste Management Plan states that the development will include:
 - 1 x 1-bedroom unit
 - 5 x 2-bedroom units
 - 1 x 3-bedroom unit
- The correct tally of units is as follows:
 - 1 x 1-bedroom unit
 - 4 x 2-bedroom units
 - 2 x 3-bedroom units

Landscape Development

The application is not supported in its current form due to absence of Arboriculture Assessment to provide recommendations for protection of trees and vegetation located wholly within the rear dwelling of adjoining western property at No.92, this requirement arises because the proposed bulk excavations along the western boundary may potentially adversely impact the roots systems of neighbouring trees.

The proposal also fails to provide adequate deep soils within the rear setback to support the proposed trees within Landscape Plan, in accordance with Apartment Design Guide (ADG) part 3E - Deep Soils Zones, the available soil volume within the rear is inadequate to support medium sized trees, which require a minimum soil volume of approximately 35^{m3} and attain a mature tree of a height of 9-12metres, site conditions have limited soil volumes to around 15^{m3} at the rear, which can only support smaller tree size of a height of 6-8metres.

The proposal also fails to provide adequate deep soils within front setback, the proposed frontage tree is not feasible and cannot be supported, in accordance with (ADG) part 3E - Deep Soils Zones, a minimal soil volume of 15^{m3} is required to support a small tree, the proposed front setback planting area only provides approximately 8.5^{m3} soil volume, which is insufficient to sustain a tree and does not meet the minimum ADG requirements.

To achieve compliance and accommodate a small tree, an additional soil volume of 6.5^{m3} would be required, the proposed frontage tree must now be removed, or frontage design be amended to demonstrate compliance with the ADG part 3E.

3.2. Environmental Health

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

Outstanding information/ Reason for refusal

Environmental Health Item 1: Noise Concerns

Relevant Controls/Policies:

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

EH Assessment comments:

Council is required to consider both the internal acoustic amenity for future occupants and the potential noise impacts on surrounding properties arising from the proposed development. No acoustic report was submitted with the application.

The proposed development seeks to intensify the use of the site from a single dwelling to the construction of a 5-storey residential flat building. Noise emanating from the development to neighbouring properties has not been appropriately considered within the Statement of Environmental Effects (SEE).

In particular:

- *External noise impacts associated with the increased residential density have not been assessed.*
- *Internal acoustic impacts, including noise generated by the lift and any rooftop plant or equipment, have not been addressed.*
- *An Acoustic Report has not been submitted with the application.*

Concerns have also been raised regarding the design and proximity of balconies overlooking neighbouring properties, which may result in unreasonable noise impacts given the close interface with adjoining dwellings.

Without an acoustic assessment, Council is unable to determine whether the proposed development complies with relevant internal noise criteria or whether appropriate mitigation measures are required.

Recommendation

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

Environmental Health Item 2: Contaminated Land

Relevant Controls/Policies:

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

Environmental Health Assessment comments

Council is required to consider the potential for land contamination as part of its obligations under Section 4.15 of the Environmental Planning and Assessment Act 1979. The application does not include a Preliminary Site Investigation (PSI) to assess the potential for land contamination

associated with the intensification of land use from a single dwelling to a multi-storey residential flat building.

Recommendation

Council cannot be satisfied that the land is suitable for the proposed use, or that it can be made suitable without supporting evidence. Accordingly, the application must not be supported on the basis that potential land contamination has not been adequately addressed.

Environmental Health Item 3. Acid Sulfate Soils

Relevant Controls/Policies:

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

Environmental Health Assessment comments

For land located within a mapped acid sulfate soil area, Council has an obligation to consider the potential presence and impacts of acid sulfate soils as part of its responsibilities under the planning assessment process.

The SEE states that the proposed site is located on Class 5 land in accordance with the Acid Sulfate Soils Map. A geotechnical report prepared by CEC Geotechnical submitted with the application recommends that a full geotechnical investigation be undertaken to confirm sub-surface conditions, including a preliminary acid sulfate soils assessment be undertaken.

Recommendation

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

3.3. Heritage planner

The proposed development appears to be exceeding the height controls. There is a concern from a heritage perspective that the development may be visually dominating the heritage items on Brook Street. Further information/clarification is required to determine the impact of the development on the heritage items. It is recommended for the applicant to provide photomontages from Brook Street and South-East corner of Brook Street and Dolphin Street intersection. The photomontages are to be illustrating 2 options one that is complying with the height controls and the other with the proposed height exceedance.

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

Clause 4.6 (Height)

94 Dolphin Street, Coogee



D23/26

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

94 Dolphin Street, Coogee

Demolition of existing dwelling house and construction of a 5-storey residential flat building comprising of 7 units (1 x 1-bedroom, 4 x 2-bedroom and 2 x 3-bedroom), basement parking and associated strata subdivision and associated works (Infill Affordable Housing)

PREPARED BY

ABC PLANNING PTY LTD

DECEMBER 2025

**CLAUSE 4.6 VARIATION REQUEST TO BUILDING HEIGHT DEVELOPMENT STANDARD
PURSUANT TO CLAUSE 4.6(3) OF RANDWICK LEP 2012**

This Clause 4.6 variation request has been prepared to accompany the Development Application for the demolition of existing dwelling house and construction of a 5-storey residential flat building comprising of 7 units (1 x 1-bedroom, 4 x 2-bedroom and 2 x 3-bedroom), basement parking and associated strata subdivision and associated works (Infill Affordable Housing) at 94 Dolphin Street, Coogee.

The site is zoned R3 Medium Density Residential under the provisions of Randwick LEP 2012.

The proposed development includes the construction of a 5-storey residential flat building comprising of:

- Driveway leading from Dolphin Street to the Basement Level
- 8 basement level parking spaces with storage, 5 bike spaces
- A bin room and a plant/services room on the Basement Level
- Pedestrian path leading from Dolphin Street to the breezeway on the Ground Floor
- Total of 7 units (1 x 1-bedroom, 4 x 2-bedroom and 2 x 3-bedroom). Unit 02 (1 x 3-bedroom unit) will be provided as affordable housing
- Landscaping around the perimeters of the building on the Ground Floor, including a consolidated deep soil area at the rear of the site and planter landscaping along the northern, eastern and southern parts of Level 1 to 4

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

Clause 4.6 Exceptions to development standards

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

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

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

(a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

(b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—

Clause 4.6 (Height)

94 Dolphin Street, Coogee

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

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).*
- (5) (Repealed)*
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) (Repealed)*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—*
 - (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4,*
 - (caa) clause 5.5,*
 - (ca) clause 6.16(3)(b)*

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

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

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

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3 of the Randwick LEP 2012 and the associated building height map (refer to extract below).



Figure 1: Building Height Map

Clause 4.3 of Randwick LEP 2012 and the associated building height map prescribes a maximum building height limit of 12m for a development on the site. Clause 16(3) of the SEPP (Housing) 2021 permits a 30% uplift above the base height, thereby allowing for a building height limit of 15.6m.

The proposed development has a maximum building height of 17.46m, representing a 11.9% (1.86m) variation to the Building Height Development Standard.

The building height departure is limited to the top of the lift overrun and to the top part of the front of Level 4. The remainder of the development complies with the building height standard. Refer to the extract of the Height Plane Diagram below.

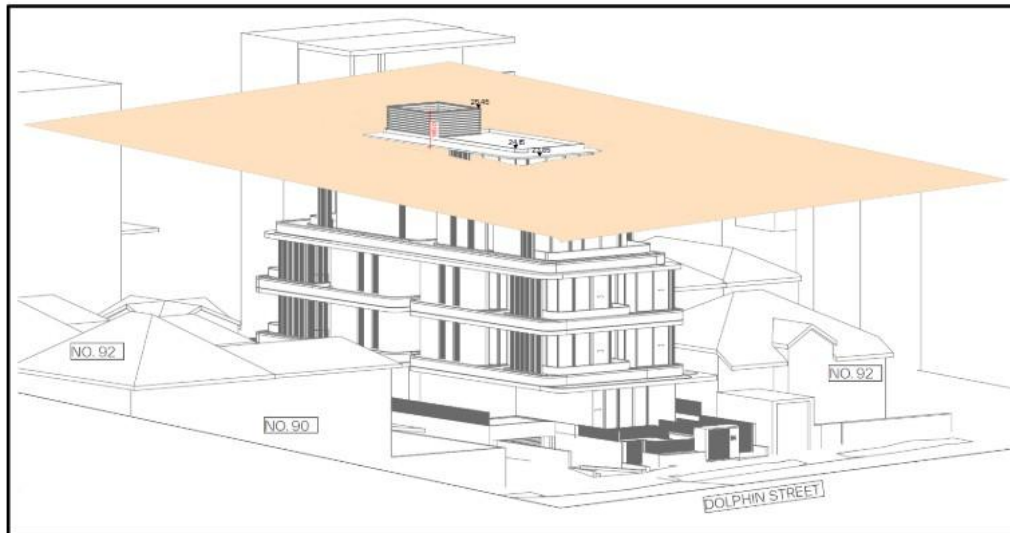


Figure 2: Extract of the height plane diagram demonstrating that the components of the development above the height control is limited to the top of the lift overrun and the top of the front of Level 4; the remainder of the development complies with the building height standard

Justification for Contravention of the Development Standard

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

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

5-Part test

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

The 5-Part Test is summarised as follows:

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

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

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

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

Consistency with the Objectives of the Building Height Development Standard in the LEP	
Objectives	Assessment
<i>(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,</i>	<p>Despite the building height non-compliance, the proposal will comfortably fit in with the local area’s character.</p> <p>The building height departure is limited to the top of the lift overrun and the top part of the roof at the front of Level 4. The remainder of the development complies with the building height standard.</p>

D23/26

<i>Clause 4.6 (Height)</i>	<i>94 Dolphin Street, Coogee</i>
	<p>The components of the development that do not comply with the building height control (i.e. the top of the lift overrun and top part of the roof at the front of Level 4) are recessed and will not generate any adverse streetscape impacts.</p> <p>The height of the built form is modulated with 4-storeys and a recessed 5th storey. The recessed nature of the upper level and recessed nature of the associated components which are above the height standard ensure that the built form will sit comfortably alongside other 4 and 5-storey residential flat buildings to the west and south respectively. Further nearby redevelopment of other properties in Brook, Bream and Dolphin Streets are of a similar scale with some comprising 5 storeys, also with affordable housing. On this basis, the proposed height variation will not generate any incompatibility with the desired future character.</p> <p>The substantial separation distance to the eastern neighbouring heritage listed terraces also ensures that there will not be an incompatible outcome with these properties, noting that these terraces are also adjoined by a 5-storey built form in close proximity on its southern side.</p> <p>Adjoining the subject site to the west are a pair of semi-detached dwellings which could also be redeveloped in a similar manner to that proposed.</p> <p>The proposed 5-storey scale of development is consistent with that which would be anticipated by the height limit associated with the 15.6m height that is generated by the SEPP height incentive. The SEPP provisions are considered to form part of the criteria which inform the desired future character.</p> <p>Further to the south of the site are residential flat buildings and mixed-use developments along Brook Street. The proposed development will be compatible with development to the south which also consist of 4-5 storey built forms.</p> <p>On this basis, the size and scale of development is compatible with the desired future character of the locality.</p> <p>The objective is thereby satisfied despite the numeric variation.</p>
<i>(b) to ensure that development is compatible with the scale and character</i>	Adjoining the site to the east are a row of semi-detached houses.

<p><i>Clause 4.6 (Height)</i></p> <p><i>of contributory buildings in a conservation area or near a heritage item,</i></p>	<p style="text-align: right;"><i>94 Dolphin Street, Coogee</i></p> <p>A Heritage Impact Statement prepared by Graham Hall and Partners Architects and Heritage Consultants is submitted with this application. The Heritage Impact Statement concludes the following:</p> <p><i>“The proposal will have no impact on the heritage significance of the listed row of semi-detached houses, or any other listed item.”</i></p> <p>It is reiterated that the substantial separation distance between the proposed built form and the heritage listed terraces ameliorates the difference in scale between the respective forms.</p> <p>The stepped nature of the built form and extent of articulation also assists in avoiding any detrimental visual impacts associated with the recessed elements over the height standard.</p> <p>On this basis, the objective is satisfied despite the height variation.</p>
<p><i>(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</i></p>	<p>The proposed exceedance of the height control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this height would not create additional benefit for adjoining properties or the locality.</p> <p><u>Overshadowing:</u> As demonstrated in the Shadow Diagrams submitted with this application, the components of the development that do not comply with the building height control (i.e. the top of the lift overrun and the top part of the roof at the front of Level 4) will not result in additional overshadowing to the adjoining properties to the south, east and west.</p> <p>Adjoining the site to the east is a concrete driveway and the rear of 2 storey dwellings. The proposed development is setback 2m from the site's eastern boundary. The neighbouring driveway provides an additional approximately 6m building separation.</p> <p>Due to the generous distance separation, the components of the development that do not comply with the building height control (i.e. the top of the lift overrun and the top part of the roof at the front of Level 4) will have limited overshadowing impacts on the building to the west in the morning only. Refer to the Shadow Diagrams submitted with this application.</p>

Clause 4.6 (Height)

94 Dolphin Street, Coogee

	<p>View Loss: The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. The properties to the west are lower scale than proposed and thereby no coastal views to the east will be affected. On this basis, the elements over the height limit will not generate any adverse view impacts.</p> <p>Privacy: The building height departure is limited to the top of the lift overrun and to the top part of the front of Level 4. The remainder of the development complies with the building height standard.</p> <p>The top of the lift overrun will not result in any adverse privacy impacts to neighbouring properties.</p> <p>The front of Level 4 that does not comply with the building height control, has been designed and sited to ensure adequate privacy to the adjoining properties in terms of location, orientation, internal layout and building materials used.</p> <p>On this basis, the objective is satisfied notwithstanding the height variation.</p>
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Consistency with the objectives of the R3 Medium Density Residential zone

Objectives	Assessment
<ul style="list-style-type: none"> To provide for the housing needs of the community within a medium density residential environment. To provide a variety of housing types within a medium density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to 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. 	<p>The site is zoned R3 Medium Density Residential under the provisions of Randwick LEP 2012.</p> <p>The proposed building height variation does not raise any inconsistency with the ability of the proposal to achieve the objectives of the R3 Medium Density Residential zone.</p> <p>The proposal is consistent with the objectives of the R3 zone as follows:</p> <ul style="list-style-type: none"> Despite the building height variation, the proposed development will provide for the housing needs of the community within a medium density residential environment. The proposal includes a mix of 1-bedroom, 2-bedroom and 3-bedroom units, including affordable housing, which will assist in promoting housing choice, flexibility and affordability. The proposal will not inhibit other land uses that provide facilities or services to meet the day-to-day needs of residents. The sensitive design ensures the medium density residential character of the area and amenity of the streetscape is maintained. The proposed height,

Clause 4.6 (Height)

94 Dolphin Street, Coogee

	<p>scale and external finishes will be in keeping with the character of the neighbourhood and streetscape. The proposed landscaping will add amenity to the area and ensure that the development sits well within the local context.</p> <ul style="list-style-type: none"> • Each of the proposed units has a high-quality design with open plan layouts, pleasant outlooks, good-sized rooms, access to sunlight, daylight, ventilation, storage, on-site parking, and private open space areas. • The proposed development will not unreasonably impact on the amenity of neighbouring and nearby properties in terms of overshadowing, privacy and view loss. <p>Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the height variation.</p>
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Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality and meets the objectives of the development standard.

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

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

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

- The building height departure is limited to the top of the lift overrun and to the top part of the front of Level 4. The remainder of the development complies with the building height standard. Refer to the extract of the Height Plane Diagram below.

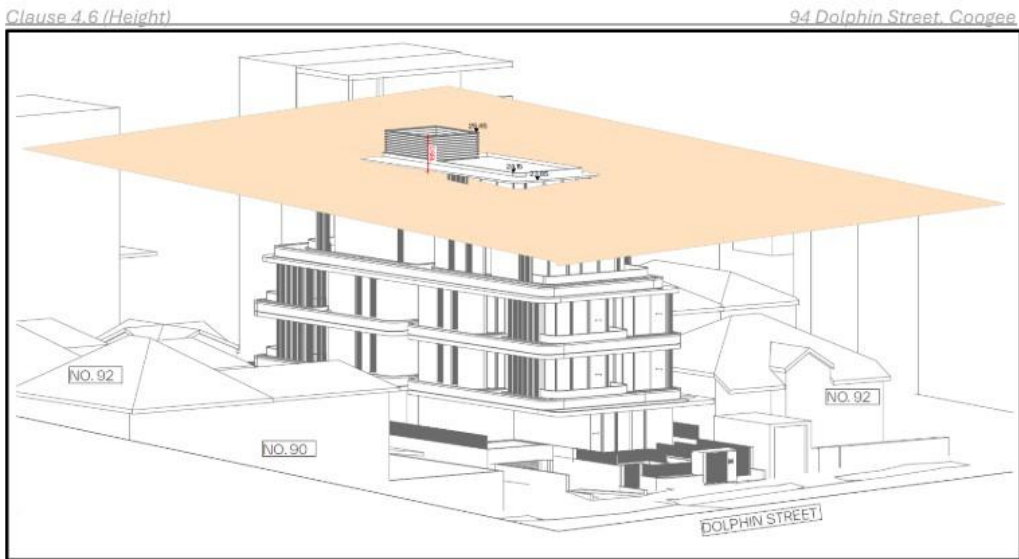


Figure 3: Extract of the height plane diagram demonstrating that the component of the development above the height control is limited to the top of the lift overrun and the top of the front of Level 4; the remainder of the development complies with the building height standard

- The 5-storey scale of development is consistent with that which would be anticipated by the height limit associated with the 15.6m height that is generated by the SEPP height incentive.
- The increase in height is due to the site being prone to flooding. Council has required the ground floor level to be raised to a minimum of 8.15m AHD. In doing so, the northern portion of level 4 has breached the height limit.

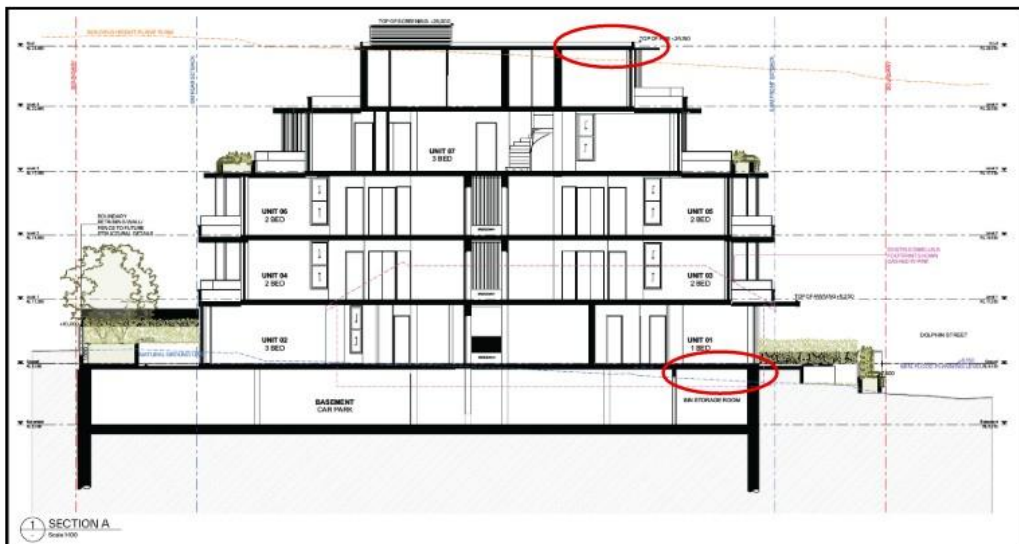


Figure 4: Extract of Section A, noting the minimum flood planning level and height variation

Clause 4.6 (Height)94 Dolphin Street, Coogee

- The site falls approximately 2.53m from the rear south-western corner of the site (RL9.13) to the front north-eastern corner of the site (RL6.6). Greater excavation, therefore, occurs at the front of the site towards Dolphin Street.
- The building height variation is partly attributed to the latest BCA requirements, which require more floor-to-floor height (i.e. slab thickness) to achieve the ADG 3.2m ceiling height requirement.
- The components of the development that do not comply with the building height control have been recessed and will not generate any adverse streetscape, visual bulk or amenity impacts.
- Despite the building height non-compliance, the proposed height is compatible with neighbouring 4-5-storey buildings to the south and west. The bulk and scale of the proposal are compatible with the locality's existing and desired future character. Refer to the extract of the photomontage below, which demonstrates that the proposed development is compatible with the height and bulk of buildings along the streetscape.



Figure 5: Extract of the photomontage demonstrating that the proposed development is compatible with the bulk and height of buildings along the streetscape

- The external facades are stepped and articulated to minimise the perceived bulk and scale of the building height non-compliance.
- The proposed exceedance of the height control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity, and a reduction in this height would not create additional benefit for adjoining properties or the locality.

- As demonstrated in the Shadow Diagrams submitted with this application, the components of the development that do not comply with the building height control (i.e. the top of the lift overrun and the top part of the roof at the front of Level 4) will not result in additional overshadowing to the adjoining properties to the south, east and west. Refer to the Shadow Diagrams submitted with this application.
- The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. The properties to the west are lower scale than proposed, and thereby, no coastal views to the east will be affected.
- The proposal includes a high-quality landscape design that includes planting a variety of trees, shrubs, and turf. Landscaping is provided within the front, side and rear setback areas on the Ground Floor, including a consolidated deep soil area at the rear of the site and planter landscaping along the northern, eastern and southern parts of levels 1 to 4. Refer to the Landscape Plan prepared by Tanya Wood Landscape Architecture submitted with this application. The proposed landscaping will enhance the amenity and visual setting of the proposed development and soften the visual built form of the proposal, notwithstanding the building height non-compliance.
- The proposal is consistent with the R3 Medium Density zone objectives and the building height objectives.
- The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represent the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).

The proposal will provide a suitable design and amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act and the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the building height variation in this instance.

Conclusion

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

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

Clause 4.6 (Height)94 Dolphin Street, Coogee

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

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

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at 94 Dolphin Street, Coogee and is requested to be looked upon favourably by the consent authority.

D23/26

Appendix 3: ADG Compliance Table

D23/26

Clause	Design Criteria	Proposal	Compliance												
Part 3: Siting the Development															
3D-1	Communal and Public Open Space														
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	No on-site COS; SEE justifies nil COS due to generous POS, nearby high-quality public open space (Coogee Oval/Beach)	On merit.												
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Nil provision as above	As above.												
3E-1	Deep Soil														
	<p>Deep soil zones are to meet the following requirements: Site Area:</p> <table border="1"> <thead> <tr> <th>Site Area</th> <th>Min. Dimension</th> <th>Deep Soil Zone (% site)</th> </tr> </thead> <tbody> <tr> <td>< 650m²</td> <td>-</td> <td>7%</td> </tr> <tr> <td>650–1,500m²</td> <td>3m</td> <td>7%</td> </tr> <tr> <td>>1,500m²</td> <td>6m</td> <td>7%</td> </tr> </tbody> </table>	Site Area	Min. Dimension	Deep Soil Zone (% site)	< 650m ²	-	7%	650–1,500m ²	3m	7%	>1,500m ²	6m	7%	4.18% - 22.53m ²	No, refer to key issues above.
Site Area	Min. Dimension	Deep Soil Zone (% site)													
< 650m ²	-	7%													
650–1,500m ²	3m	7%													
>1,500m ²	6m	7%													
3F-1	Visual Privacy														
	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</p>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Refer to key issues discussion above.</p> <p>Eastern façade = 2m window setbacks to eastern boundary generally, windows look into private open space and rear of Brook Street terraces. Multiple windows with private screens. Windows without privacy screen on level 3 setback from planter to prevent looking down.</p> <p>Western façade = 2.64m window setbacks to western shared boundary from habitable rooms, multiple windows with privacy screens.</p> <p>Southern façade = 7.12m setback from windows to rear boundary, increasing to 11.37m on level 3.</p>	No
Building Height	Habitable Rooms and Balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													

Clause	Design Criteria	Proposal	Compliance
		Terraces only have partial areas with privacy screens, overlooking of private open space possible.	
3J-1	Bicycle and Car Parking		
	For sites located within 800m of a light rail stop, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street	8 basement spaces total (1 AH + 7 others); meets CI 19 and ADG non-discretionary standards.	Yes
Part 4: Designing the Building			
4A	Solar and Daylight Access		
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid Winter.	86% (6/7) achieve ≥ 2 hrs;	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	14.2% (1/7) receive none — both within thresholds.	Yes
4B	Natural Ventilation		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	100% cross-ventilated; all well under 18 m and generally three-sided.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	N/A	N/A
4C	Ceiling Heights		
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> Habitable Rooms – 2.7m Non-habitable – 2.4m Attic spaces – 1.8m at edge with min 30 degree ceiling slope Mixed use areas – 3.3m for ground and first floor <p>These minimums do not preclude higher ceilings if desired</p>	2.7m. 2.1m ceiling to bin storage room.	Yes
4D	Apartment Size and Layout		
	Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> Studio - 35m² 1 bedroom - 50m² 2 bedroom - 70m² 3 bedroom - 90m² 	1-bed 55.3 m² ; 2-bed ~79 m² ; 3-bed ~97.9–141.5 m²	Yes

D23/26

Clause	Design Criteria	Proposal	Compliance															
	<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m² each</p>																	
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Incorporated	Yes															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Layouts comply (depths/widths).	Yes															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	As above	Yes															
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Complies	Yes															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Complies	Yes															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	Layouts comply (depths/widths).	Yes															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	N/A	N/A															
4E	Open Space																	
	<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling type	Minimum area	Minimum depth	Studio	4 m ²	-	1 bedroom	8 m ²	2m	2 bedroom	10 m ²	2m	3+ bedroom	12 m ²	2.4m	<p>1-bed: 21.3 m²; 2-bed: 13.2–13.3 m²; 3-bed: 28.1–56.2 m²; dimensions per ADG.</p>	Yes
Dwelling type	Minimum area	Minimum depth																
Studio	4 m ²	-																
1 bedroom	8 m ²	2m																
2 bedroom	10 m ²	2m																
3+ bedroom	12 m ²	2.4m																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	Complies as above.	Yes															
4F	Common Circulation and Spaces																	
	The maximum number of apartments off a circulation core on a single level is eight	Complies – 2 per core	Yes															
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	N/A	N/A															
4G	Storage																	

Clause	Design Criteria	Proposal	Compliance
	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio apartments - 4m³ • 1 bedroom apartments - 6m³ • 2 bedroom apartments - 8m³ • 3+ bedroom apartments - 10m³ <p>At least 50% of the required storage is to be located within the apartment</p>	<p>1-bed : 12.7m³ 2-bed: 8.5m³ - 8.8m³ 3-bed: 13.2m³ – 13.3m³</p>	<p>Yes</p>

D23/26

D23/26

Appendix 4: Housing SEPP - In-fill Affordable Housing Compliance Table

Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
15C Development to which division applies		
(1) This division applies to development that includes residential development if—		
(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and	Permitted in zone	Yes
(b) the affordable housing component is at least 10%, and	15.86% of GFA as affordable (Unit 02, 97.9 m ²)	Yes
(c) all or part of the development is carried out— (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.	Accessible to multiple bus services.	Yes
(2) Affordable housing provided as part of development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing component under this division.	N/A	N/A
16 Affordable housing requirements for additional floor space ratio		
(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).	Development exceeds maximum permitted FSR. Refer to key issues and LEP section above.	No
(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— $\text{affordable housing component} = \frac{\text{additional floor space ratio}}{\text{(as a percentage)}} \div 2$	Minimum floor area provided.	Yes as above.
(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).	Clause 4.6 provided to exceed bonus height not supported. Refer to detailed assessment above.	No
(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	N/A	N/A
19 Non-discretionary development standards—the Act, s 4.15		
(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—		
(a) a minimum site area of 450m ² ,	538.8 m ²	Yes
(b) a minimum landscaped area that is the lesser of— (i) 35m ² per dwelling, or (ii) 30% of the site area,	Refer to key issues section. Not supported under Chapter 4 assessment.	Chapter 4 prevails.
(c) a deep soil zone on at least 15% of the site area, where—	Refer to key issues section.	Chapter 4 prevails.

Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
(i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,	Not supported under Chapter 4 assessment.	
(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,	Complies as noted above.	Yes
(e) the following number of parking spaces for dwellings used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,	1 AH space - complies	Yes
(f) the following number of parking spaces for dwellings not used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	7 spaces - complies	Yes
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	Size requirements met.	Yes
(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,	N/A	N/A
(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m ² , (ii) for each dwelling containing 2 bedrooms—90m ² , (iii) for each dwelling containing at least 3 bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms.	Complies with (g)	N/A
(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Noted	No – Compliance not demonstrated with Ch. 4.
20 Design requirements		
(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.	N/A	N/A
(2) Subsection (1) does not apply to development to which Chapter 4 applies.	Noted	N/A
(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with— (a) the desirable elements of the character of the local area, or	Refer to key issues. Supportable outcome not demonstrated.	No

D23/26

Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
(b) for precincts undergoing transition—the desired future character of the precinct.		
21 Must be used for affordable housing for at least 15 years		
(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	Capable of compliance.	Yes
22 Subdivision permitted with consent		
Land on which development has been carried out under this division may be subdivided with development consent.	Noted	Yes

Appendix 5: DCP Compliance Table

3.1 Section B6: Recycling and Waste Management

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
4.	On-Going Operation		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.	Location supported by Engineering team. Refer to Appendix 1.	Yes
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.	Location supported by Engineering team. Refer to Appendix 1.	Yes
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.	No concerns with proposed location.	Yes
	(vii) Ensure the waste storage facilities are easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).	Accessible to all future occupants.	Yes
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	Capable of compliance.	Yes
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system and have	Capable of compliance.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	lighting and water supply.		

3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
2.	Site Planning		
2.1	Site Layout Options		
	Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for: <ul style="list-style-type: none"> • Two block / courtyard example • T-shape example • U-shape example • Conventional example 	Conventional mid-block adopted. Concerns with proposed height and building separation.	No concerns regarding built form general layout.
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (269.4m ²) is to be landscaped open space.	SEPP prevails.	N/A
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (134.7m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	SEPP prevails.	N/A
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	Limited areas provided due to basement excavation. Refer to key issues assessment above.	No
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	Incorporated in design.	Yes
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	Limited areas provided due to basement excavation. Refer to key issues assessment above.	No
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Limited areas provided along side boundaries and rear interface.	No
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: <ul style="list-style-type: none"> (i) Directly accessible from the living area of the dwelling. 	Compliant as above.	Yes

D23/26

D23/26

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.		
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	Spatial requirements met.	Yes
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	Nil provision	Supported on merit due to locational context.
3.	Building Envelope		
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	North–south dimension below max; apartment amenity maintained.	Yes
3.4	Setbacks		
3.4.1	Front setback		
	(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.	5.5 m to Dolphin St; aligns with west-side pattern.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.		
3.4.2	Side setback		
	<p>Residential flat building</p> (i) Comply with the minimum side setback requirements stated below: - 14m ≤ site frontage width < 16m: 2.5m (ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to: - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. (iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.	2.0 m east and west; plus ~6 m driveway separation to east context. Planter box encroachments.	Partial compliance
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater.	6.34m	Yes
4. Building Design			
4.1	Building façade		

D23/26

D23/26

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs. 	<p>Suitable articulation and material changes provided to enable visual interest. However, rooftop building services will be potentially visible to neighbouring properties. Can be relocated to ensure compliance.</p>	<p>Partial</p>
4.2	Roof design		
	<ul style="list-style-type: none"> (i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. (iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms. (v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape. (vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain. 	<p>Upper level design incorporating rooftop plant above the height limit has not demonstrated an integrated design outcome and would require further refinement.</p>	<p>Partial</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>		
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages showing the front and rear elevations of the development. 	N/A	N/A
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a	Refer to key issues assessment in relation to wall height exceedance	No

D23/26

D23/26

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	maximum external wall height of 8m applies.	and unacceptable visual bulk.	
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Complies	Yes
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Provided in design.	Yes
	<p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>	Building entry provided to side entrance via entrance ramp. Mailboxes provided. Front dwelling provided with direct stair entry.	Partial
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. 	Design outcome generally consistent with control provisions.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 		
	(ii) Use multiple access cores to: <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	Only 2 units per level.	Yes
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	N/A	N/A
4.7	Apartment layout		
	(i) Maximise opportunities for natural lighting and ventilation through the following measures: <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.	Design requirements met.	Yes
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	Design requirements met.	Yes
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Provisions made.	Yes
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	Open plan layouts provided.	Yes
4.8	Balconies		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area	Spatial requirements met, as above.	Yes

D23/26

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	of 8m2 and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.		
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m2. All ground floor apartments are to have direct access to a terrace.	Noted apartments are elevated above natural ground. However, larger than minimum private open space generally afforded.	Yes
4.9	Colours, materials and finishes		
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. (v) Avoid the following materials or treatment: <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts (vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.	Capable of compliance, subject to minor refinement.	Yes
4.12	Earthworks Excavation and backfilling		
	(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building	Basement has excavation with nil setback to west, south and east boundaries.	No

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	within this extent of site modification. (ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site. (iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.		
	Retaining walls (iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries. (v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain. (vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).	N/A	N/A
5. Amenity			
5.1 Solar access and overshadowing			
Solar access for proposed development			
	(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.	Complies – as above.	Yes
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	Complies – as above.	Yes
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	Complies – as above.	Yes
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	N/A	N/A
Solar access for surrounding development			

D23/26

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June. (ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June. (iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.	Refer to key issues – insufficient information provided.	No
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	All units have multiple aspects to enable daylight and ventilation.	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Measures incorporated.	Yes
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	All units have multiple aspects to enable daylight and ventilation.	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	All units have multiple aspects to enable daylight and ventilation.	Yes
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	All units comply.	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	All units capable of compliance.	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	No variation.	N/A
5.3	Visual privacy		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences. (iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance. (iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy. (v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	Insufficient design provided to mitigate sight lines refer to ADG assessment above.	ADG prevails.
5.4	Acoustic privacy		
	(i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	No acoustic report provided for assessment.	No – insufficient information to support design.
5.5	View sharing		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings.	No detailed view analysis provided - refer to key issues above. Insufficient information to enable assessment of impacts.	No

D23/26

D23/26

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain. (v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain. (vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	No areas of concern identified.	Yes
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Internal access provided.	Yes
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	Operable glazing provided.	Yes
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No concerns with subject design.	Yes
	(vi) Resident car parking areas must be equipped with security grilles or doors.	Basement garage provided.	Yes
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	Capable of compliance	Yes
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Capable of compliance	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Generally consistent	Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Capable of compliance	Yes
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	Capable of compliance	Yes
6. Car parking and access			
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	Only sole street frontage.	Yes
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	Consistent with design provision.	Yes
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	Consistent with design provision.	Yes
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	N/A	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	Basement provided.	Yes
6.2	Configuration		
	(i) With the exception of hardstand car spaces and garages, all car parks	Provided in design.	Yes

D23/26

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	must be designed to allow vehicles to enter and exit in a forward direction.		
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	Complies	Yes
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.	Capable of compliance.	Yes
7. Fencing and Ancillary Development			
7.1 Fencing			
	(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: - Steel post and chain wire - Barbed wire or other dangerous materials	Material finishes can comply via condition.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(iii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.		
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.	Alignment supported.	Yes
	(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.	Front 1.8 m with slatted upper.	Yes
	(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.	Capable of compliance	Yes
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: <ul style="list-style-type: none"> - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.	Complies as above	Yes
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.	Complies	Yes
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	Material finishes can comply via condition.	Yes
	(vii) Gates must not open over public land.	Complies	Yes
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	No concerns raised by engineering team.	N/A
7.3	Side and Rear Fencing		
	(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to	Side/rear 1.8 m proposed.	Yes

D23/26

D23/26

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).</p> <p>(ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>		
7.6	Storage		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m³</p> <p>(b) 1-bedroom apartments – 6m³</p> <p>(c) 2-bedroom apartments – 8m³</p> <p>(d) 3 plus bedroom apartments – 10m³</p>	Complies - As above in ADG	Yes – ADG prevails.
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Areas provided.	Yes
	(ii) Provide internal laundry for each dwelling unit.	Areas provided.	Yes
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	N/A	N/A
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> Avoid installing within window frames. If installed in balconies, 	Not shown in windows or on balconies.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	screen by suitable balustrades. <ul style="list-style-type: none"> • Air conditioning units must not be installed within window frames. 		

Responsible officer: Thomas Awford, Environmental Planning Officer

File Reference: DA/65/2026

D23/26

Development Application Report No. D24/26

Subject: 74 St Marks Road, Randwick (DA/1456/2025)

Executive Summary

Proposal:	Demolition of existing buildings/structures, tree removal and construction of a 6-storey residential flat building comprising 11 apartments (1 x 2-bedroom and 10 x 3-bedroom) and 2 levels of basement parking containing 25 car parking spaces, associated ancillary and landscaping works (Low and mid-rise housing-LMR)
Ward:	East Ward
Applicant:	Eact Pty Limited
Owner:	Eact Pty Ltd, Mr T N Lavdaras, Ms A Vidovic, Mr T J Vidovic
Cost of works:	\$11,078,167
Reason for referral:	10 or more submissions by way of objection

Recommendation

That the RLPP refuses consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/1456/2025 for demolition of existing buildings/structures, tree removal and construction of a 6-storey residential flat building comprising 11 apartments (1 x 2-bedroom and 10 x 3-bedroom) and 2 levels of basement parking containing 20 car parking spaces, associated ancillary and landscaping works at No. 74 St Marks Road, Randwick, for the following reasons:

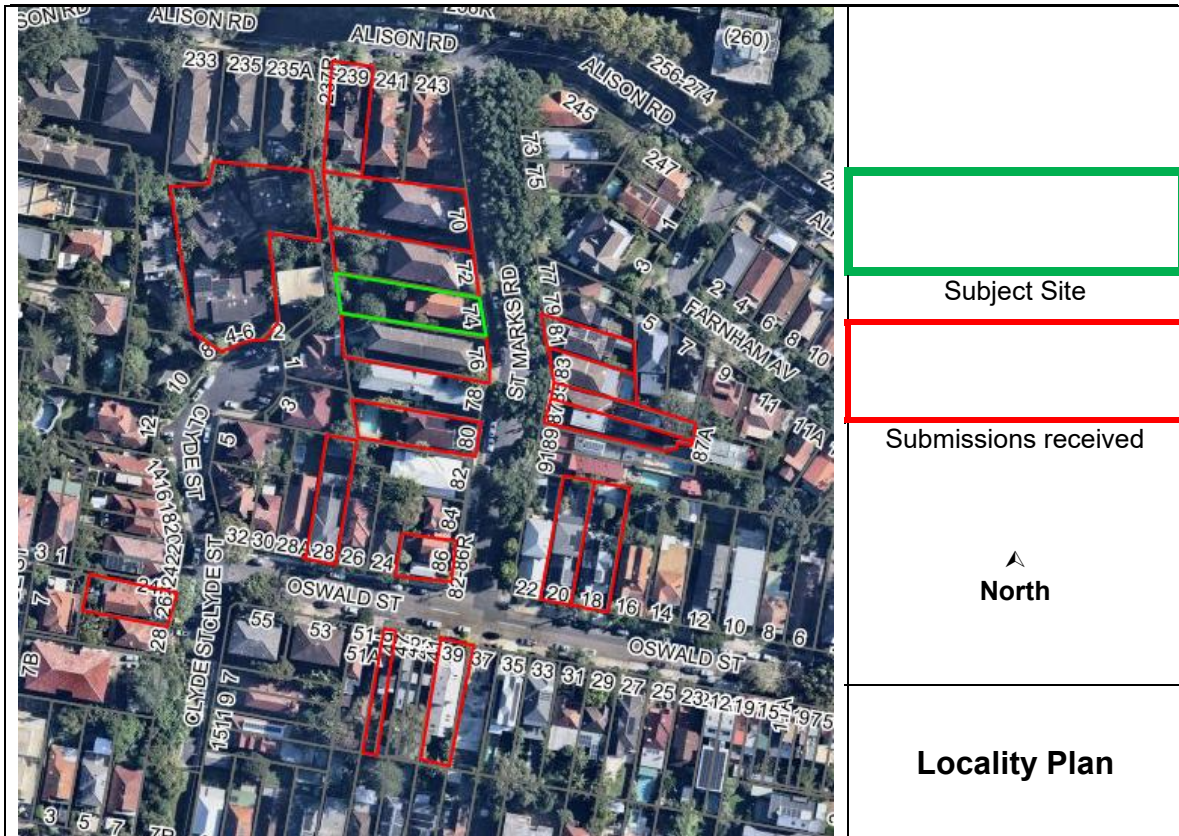
1. Pursuant to Chapter 6 of the Housing SEPP and the definition of walking distance, the identification of the subject site as being located within the “low and mid-rise housing inner area” is not considered to be satisfied. The applicant’s reliance on a 400-metre walking distance via a rear pedestrian pathway is not supported, as the pathway does not constitute a safe, direct, and publicly accessible access route having regard to CPTED principles. Accordingly, the site’s eligibility for the proposed development controls has not been established.
2. The proposal is inconsistent with the Design Quality Principles under Schedule 9 of the Housing SEPP, particularly in relation to context and neighbourhood character, built form and scale, amenity, and safety. The development does not appropriately respond to its context and results in unacceptable amenity impacts for adjoining properties and future occupants.
3. The proposal fails to achieve compliance with the relevant objectives of the Apartment Design Guide, particularly in relation to building separation (Objective 3F), visual and acoustic privacy, and solar access (Objective 4A). The insufficient setbacks and separation distances result in poor privacy outcomes and reliance on excessive mitigation measures, while the solar access non-compliance results in unreasonable impacts on adjoining properties and future occupants.
4. The application fails to demonstrate that the site is suitable for the proposed use, contrary to Clause 4.6 of the SEPP (Resilience and Hazards) 2021. The Preliminary Site Investigation identifies data gaps, including potential groundwater contamination and uncertainty regarding site classification. In the absence of a Detailed Site Investigation, the consent authority cannot be satisfied that the land is suitable for residential redevelopment.
5. The proposal is inconsistent with the objectives of the R3 Medium Density Residential Zone, as the bulk, scale, and intensity of the development are incompatible with the existing and desired future character of the locality. The proposed six-storey form represents an overdevelopment of the site and is inconsistent with the established and emerging built form along St Marks Road whose properties frontages are located within the “outer area” (400–800 metres from Randwick

Junction), where development is intended to be generally limited to four storeys and a 1.5:1 floor space ratio.

6. The proposal fails to satisfy Clause 6.2 (Earthworks), as insufficient information has been provided to demonstrate that the extent of excavation can be undertaken without adverse impacts on soil stability, drainage, or the structural integrity of adjoining properties.
7. The proposal is inconsistent with Clause 5.10 (Heritage Conservation), as it fails to appropriately respond to the setting of the nearby heritage item Farnham House (Item I366). The bulk, scale, and insufficient upper-level setbacks would result in an adverse impact on the heritage curtilage and surrounding streetscape.
8. The proposal does not comply with the relevant provisions of the Randwick Development Control Plan 2013/2023, including:
 - Part C2, Section 3.3: Setbacks
 - Section 4.2 – Roof design requirements
 - Part C2, Section 4.3 – Building design and articulation (maximum wall lengths of 10–12 metres)
 - Part C2, Section 4.4 – External wall height (maximum 10.5 metres)
 - Part C2, Section 5.1 – Solar access and overshadowing controls
9. Non-compliance with these provisions results in excessive bulk and scale, poor building articulation, and unacceptable amenity impacts including overshadowing, loss of privacy, and adverse streetscape presentation.
10. Pursuant to Section 4.15(1)(c), the consent authority is not satisfied that the site is suitable for the proposed development, having regard to its context, environmental constraints, and unresolved contamination risks.
11. Pursuant to Section 4.15(1)(e), the proposed development is not in the public interest due to its inconsistency with the statutory planning framework and the cumulative extent of non-compliances with the Housing SEPP, RLEP 2012, ADG, and RDCP 2013.

Attachment/s:

Nil



D24/26

1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as 10 or more unique submissions by way of objection were received and is classified as a residential flat building subject to Chapter 4 of the Housing SEPP.

The proposal seeks development consent for demolition of existing buildings/structures, tree removal and construction of a 6-storey residential flat building comprising 11 apartments (1 x 2-bedroom and 10 x 3-bedroom) and 2 levels of basement parking containing 25 car parking spaces, associated ancillary and landscaping works.

The key issues associated with the proposal relate to significant concerns regarding its reliance on the Housing SEPP Low and Mid Rise (LMR) “inner area” provisions, with the applicant inappropriately measuring walking distance from an unsafe and impractical rear laneway. The site is more appropriately located within the “outer area,” where lower development standards apply. As proposed, the 6-storey building with a 2.03:1 FSR represents an overdevelopment that is inconsistent with the established and emerging 3–4 storey character of St Marks Road. The application lacks adequate contextual analysis and urban design justification and fails to demonstrate a built form that responds appropriately to the surrounding streetscape, future character, or nearby heritage item (Farnham House).

The development does not satisfy key Design Quality Principles under the Housing SEPP or the Apartment Design Guide, with significant non-compliances relating to building separation/setbacks, solar access, privacy, and built form articulation. These deficiencies result in unacceptable amenity impacts, including overshadowing, reduced daylight, and privacy loss for both future occupants and neighbouring properties. Additional concerns include inadequate communal open space and landscaping within the front/offset car lift entry, poor public domain interface, limited housing diversity, unresolved contamination risks, and insufficient geotechnical information to support the extent of significant excavation. Collectively, these issues indicate that the site is unsuitable for the proposed scale and intensity of development.

The proposal is recommended for refusal for the reasons outlined above.

2. Site Description and Locality

The site comprises a single allotment of land being Lot 6 DP9443 at 74 St Marks Road Randwick.

The site is a generally a parallelogram shaped block with oblique boundaries to St Marks Road to the east and a public pathway to the west, with the following dimensions:

- Northern boundary length of 48.665m adjoining 72 St Marks Road
- Southern boundary length of 48.63m adjoining 76 St Marks Road
- Eastern boundary length of 14.035m Fronting St Marks Road
- Western boundary length of 14.045m adjoining the public pedestrian laneway connecting Alison Road with Clyde Street.

The area is 651.3m² by title and 652.4m² by survey.

The site has a fall from north side to south side on the eastern boundary of 1.98 meters (RL36.23 in the north-east corner) to RL34.25 in the southeast corner. In the centre of the site the fall is approximately 1.73 metres from approximately RL33.99 in the north to RL32.26 in the south. There is also a fall from the east to the west of approximately 3.22 metres measured in the centre of the east and west boundaries from RL35.23 in the east to RL32.01 in the west.

On the site is an aging single storey brick and clad dwelling with a pitched tiled roof which is in a state of disrepair currently boarded up with site fencing at the front and sides and boundary fencing at the rear along the public pathway. It is located below the street level due to the topography of the site. A driveway is on the southern side of the dwelling leading to a single carport adjacent to the dwelling. A low brick front wall is on the front boundary. There are open lawn areas and some trees and shrubs in the rear and sides of the site which is overgrown.



Photo 1: Subject site

The rear of the site is flood affected and located within the Coogee Bay Flood Study Area and beyond is a rear through pedestrian laneway connecting Alison Road down to Clyde Street as shown in photo 2 below.



Photo 2: Access stairs along rear boundary looking towards Alison Road

The application relies on the rear access to demonstrate that the site is located in the **inner area** pursuant to Chapter 6 Low Mid Rise Housing SEPP as it is within 400m walking distance of the Randwick Junction town Centre Map. The applicant has submitted a surveyed walking distance mapped by a registered surveyor shown in figure below (PS Pang Surveyors Ref: 19-0811 ROUTE, dated 20/12/2025, numbered Sheet 1 of 1 – excerpt shown below) indicating that the site is at point of entrance between 382.88m and 395.312m walking distance from the No. 141 Avoca Street a site located on the edge of Randwick Junction Town Centre.

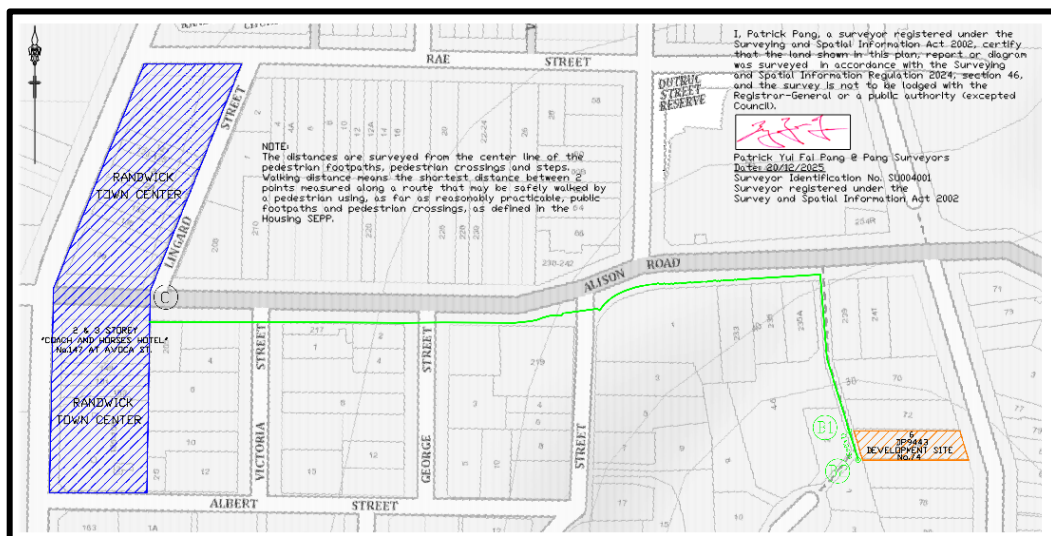


Figure 1: Walking distance mapping – see also photo 2(Source: PS Pang Surveyors). An aerial photograph depicting the location of the site and its surrounds is provided below.

D24/26

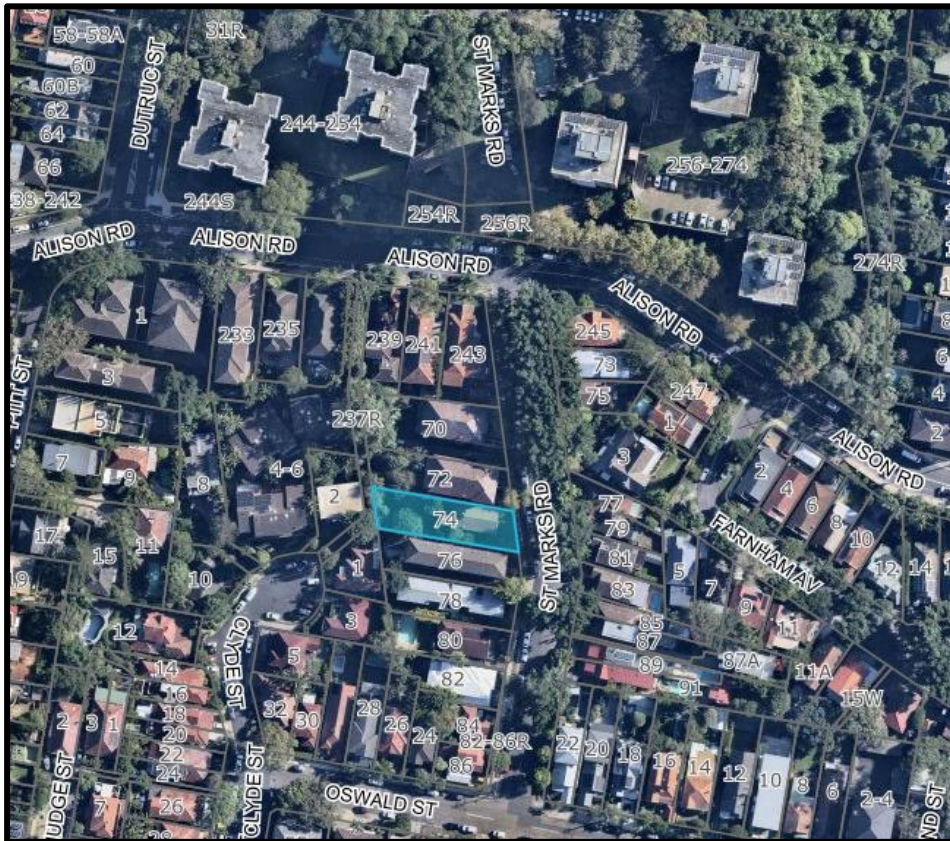


Figure 2: Aerial view of subject site (Source: NearMap)

The site is within Zone R3 ‘Medium Density Residential’ under the provisions of Randwick Local Environmental Plan 2012 (“RLEP 2012”) and subject to maximum 12m height and 0.9:1 FSR development standards.

The surrounding area

The site is on the western side of St Marks Road approximately 80 metres south of the junction with Alison Road Randwick and from the rear boundary at the public pedestrian path the site is around approximately 385metres from the Randwick Junction Town Centre at the boundary of No. 143 Avoca Street.

St Marks Road has an established medium density character. St Marks Road is characterised as a heavily landscaped street in the proximity of the site, with very large established street trees on the eastern side of the street which extend across most of the street. Fred Hollows Reserve is an approximate 350 metre walk to the northeast.

The eastern side of St Marks Road is characterised by established and well maintained single and double storey dwelling houses. The western side of St Marks Road has a mix of single and double storey dwelling houses and a number of residential flat buildings. 70 and 72 St Marks Road to the north are both two storey, dark face brick interwar residential flat buildings, although both have a partial three storey appearance on the lower (southern) side of the building. Both have hipped tiled roofs with cream detailing around the windows and doors.

To the northeast (facing onto St Marks Road) is 3 Farnham Avenue, a two-storey sandstone Victorian house with pitched tiled roof - a heritage item listed in the RLEP.

To the south at 76 St Marks Road is a three-storey red brick residential flat building located above a garage, giving a four-storey appearance to the street. 78 St Marks Road to the south is a contemporary dual occupancy with basement parking.

To the rear is a steep public pathway of 3.66 metres width, mostly comprised of steps which connect the Clyde Street cul-de-sac to Alison Road. Across the path is a two-storey brick and clad dwelling with a metal roof.

The site is located within the R3 medium density residential under the Randwick Local Environmental Plan 2012 (RLEP 2012). Below is an extract of the Land Zoning Map depicting the zone and its surrounds.

Within the immediate visual catchment of the subject site, the buildings are predominantly 1 to 4 storeys in scale noting that the steep slope from side to side means that at the lower levels along the southern side of sites the buildings present as additional half to full storey higher to their built form.



Photo 3: Adjoining flat building to the north at No. 72 St Marks Road



Photo 4: Adjoining flat building to the south at No. 76 St Marks Road.

3. Relevant history

Background

DA/362/2020: On 8 June 2021, under S34 of the LEC Act the development application DA/362/2020 was approved for the demolition of existing dwelling and construction of a residential flat building comprising 8 apartments, basement parking, landscaping and associated works. This consent will expire on 8 June 2026.

DA/362/2020/A: On 14 November 2023, approved Modification Application for changes including internal reconfiguration and amalgamation of units, changes in basement to reflect structural engineering requirements, reduction of visitor parking, fenestration changes, and increase in service area sizes.

DA/362/2020/B: On 22 October 2024, approved Modification Application for changes to pedestrian entry, landscaping and deep soil areas; upgrades to basement level such as changes to OSD size, addition of garage door/s and lift alcove; amalgamation of Units 1 and 2 to create single unit on ground (7 units total); and internal re-configurations on all levels to facilitate pump and garbage room.

4. Proposal

The proposal seeks development consent for demolition of existing buildings/structures, tree removal and construction of a 6-storey residential flat building comprising 11 apartments (1 x 2 bedroom and 10 x 3 bedroom) and 2 levels of basement parking containing 20 car parking spaces, associated ancillary and landscaping works.

Specifically, the proposal is for the following:

Construction of a six-storey residential flat building consisting of:

2 Basement levels (~10-12m excavation):

- 25 car parking spaces (10 double stackers, 3 visitor spaces, 17 bicycle spaces (11 in storage areas), 1 motorbike space and 2 accessible spaces)
- 2x fire staircase, and
- Car lift access and occupant Lift access

Basement level 1 (upper):

- 9 spaces in total (2 x double stackers, 2 accessible spaces, 1 motorcycle space and 6 bicycle (1 visitor)).
- OSD tank
- 3 storage areas containing 3 bicycle spaces

Basement level 2 (lower):

- 16 spaces in total (8 x double stackers,
- 8 storage areas containing bicycle spaces.
- Lower ground floor:
- Car lift access off St Marks Road
- Services including:
- Sprinkler room
- Pump room
- Garbage room
- Fire stairs
- Gas and water
- Courtyard/lift access and ramping from rear communal open space
- 1 x 2B unit (U1) 94m² at rear.
- Communal open space ~83m²

- New 1.8m high boundary fence along rear – no indication of gate access off Council laneway - pedestrian pathway connecting Alison Road with Clyde Street.

Ground floor:

- Ramping and stairs along walkway
- Car lift access off St Marks Road down to basement parking levels below
- Ground floor lobby,
- Garden space
- Ramp and stair access down to lower-level ground level plant & services and lower ground level lobby

1st floor (2nd storey) to 5th floor (6th storey):

- 10 x 3-bedroom units
- 2 x 3B units at each level (Rear units contain 2 bathrooms and front units contain one bathroom.
- Rear units have areas of 104m²
- Front units have areas of 123mm².
- 3.2m floor to floor heights



Figure 3: Photomontage of proposed development looking across subject site in a north-west direction (left) and south-west direction (right) (Source: Applicant)

D24/26

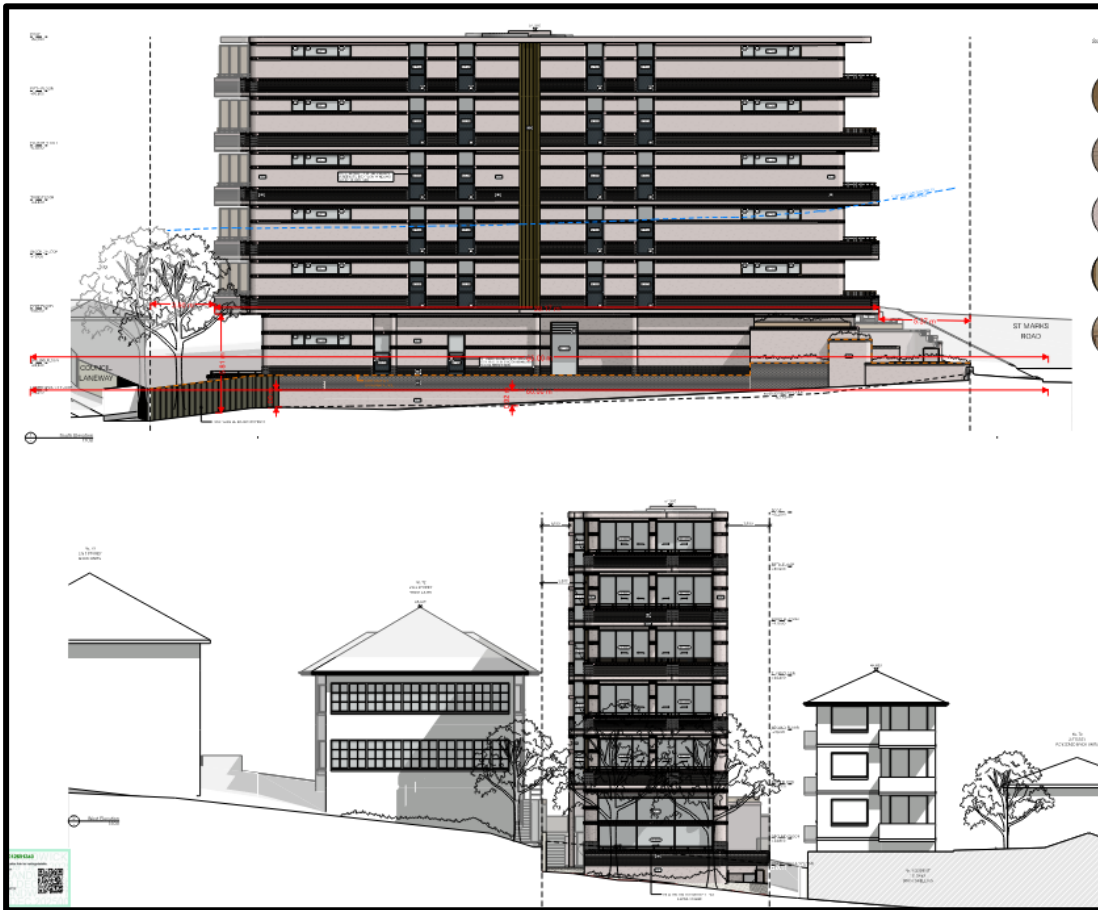


Figure 4: Elevations southern side and rear.



Figure 5: Elevations northern side and front.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development between 23 January 2026 to 9 February 2026, in accordance with the Randwick Community Engagement Strategy. As a result of the notification process, the following submissions (39) were received by way of objection including 3 by way of support:

Objection:

- 1/70 St Marks Road (3 submissions)
- 3/70 St Marks Road
- 4/70 St Marks Road
- 5/70 St Marks Road
- 6/70 St Marks Road
- 72 St Marks Road - Town planning letter on behalf of 7 unit owners
- Proforma letter from 1/72 St Marks Road and 2/72 St Marks Road
- 3/72 St Marks Road
- 4/72 St Marks Road
- 5/72 St Marks Road (2 submissions)
- 7/72 St Marks Road
- 1/76 St Marks Road
- 9/76 St Marks Road
- 10/76 St Marks Road
- 76 St Marks Road
- 80 & 82 St Marks Road
- 81 St Marks Road (2 submissions)
- 83 St Marks Road
- 85 St Marks Road
- 86 St Marks Road
- 87 St Marks Road
- 18 Oswald Street
- 20 Oswald Street
- 28 Oswald Street
- 39 Oswald Street
- 49 Oswald Street
- 1/239 Alison Road (2 submissions)
- 2/239 Alison Road
- Resident of Clyde Street
- 4-6 Clyde Street resident
- 26 Clyde Street
- 1/7 Victoria Street
- Architect (2 submissions from same architect)

Issue	Comment
<p>Overshadowing</p> <p>Requests assessment of hourly shadow diagrams on east and west façade of 76 St Marks Road.</p>	<p>In regard to overshadowing, the submitted shadow diagrams substandard and don't enable a robust assessment of overshadowing of neighbouring properties or those further afield. Given the built form and scale aren't considered to satisfy the good design principles for context and neighbourhood character and not considered to contribute to the desired character of the locality, and the development is recommended for refusal a request for these details is not warranted.</p>
<p>Privacy impacts</p> <p>Request exact location of windows in relation to neighbouring properties be shown.</p>	<p>Noted, the proposal contains privacy measures to windows and balconies. Certain design requirements may be conditioned to meet the privacy guidelines to restrict direct sightlines</p>

D24/26

Issue	Comment
<p>Car parking and traffic impacts</p> <p>Heavy reliance on car stackers and single driveway to a car lift raises operational and traffic concerns such as parkin demand, pedestrian safety and queuing vehicles along St Marks Road</p>	<p>Noted.</p>
<p>Distance to Town Centre and pedestrian access</p> <p>The plans don't show safe, legal and practical pedestrian access for all residents and request clarification on whether the laneway can reasonably be considered ap primary pedestrian rout in terms of compliance with distance to centre requirements.</p>	<p>Agreed see key issues discussion of walking distance.</p>
<p>Gross overdevelopment, and not good design (bulk and scale and impacts)</p> <p>Don't object to current approval (which is a balanced and appropriate response to the site constraints and context), however, object to the increase in height and density sought under LMR which are not development entitlements and must still be assessed under S4.15 of the Act.</p> <p>Inconsistent with the intent of the LMR and Housing SEPP.</p> <p>In this regard the proposal represents little amenity for future occupants (small windows), is a gross overdevelopment and incompatible (dominating) the local character noting St Marks Road.</p> <p>St Marks Road isn't an area where wholesale redevelopment to 6 storeys is anticipated in the near or medium term noting several recent developments haven't been developed to this height and unlikely to change.</p> <p>Inconsistent with Schedule 9 design quality principles of Housing SEPP and Apartment design guide, part B1 Design (4- Design Excellence) and Part C2 Medium Density (4-Building Design) of the DCP.</p> <p>The proposal doesn't contain good design it doesn't respond to the context or the desired future character and detracts from the qualities and identify of the area and streetscape.</p> <p>The proposal does not exhibit design excellence and will dominate St Marks Road streetscape, the local character, results in adverse visual amenity and is inconsistent with the zone objectives.</p>	<p>Agreed, the assessment report considers whether the development is appropriate for the site context and neighbourhood along St Marks Road as well as whether it contributes to the desired character of the area as required by objectives for the R3 medium density zone Overall, the proposal is considered an overdevelopment of the site and surrounding area.</p>

Issue	Comment
<p>Heritage impacts</p> <p>The St Marks Precinct study and heritage context indicates this area contains the city's largest and most consistent collection of nineteenth century dwellings. And importance of retaining a low scale fine grained character and protecting the historic rhythm and setting of development along St Marks Road. The 6-storey building will dominate the precinct and nearby heritage item.</p>	<p>Council's Heritage planner has provided comments that considers the proposal will detract from the heritage significance of the nearby heritage item.</p>
<p>Existing and desired Streetscape impacts - Infill site constraints and unsuitability of built form</p> <p>The small narrow infill site isn't capable of accommodating a 6-storey building with appropriate or acceptable outcomes with regard to building separation, visual bulk, daylight access, landscaping, ventilation and urban design quality. Building towers over existing and likely development in the area.</p>	<p>Agreed, the proposed development does not have a size and scale that is compatible with the desired future character of the locality, which is symptomatic of the shallow separation and envisaged size and scale of development along St Marks Road.</p>
<p>Solar access</p> <p>The proposal will overshadow roof solar collectors further afield of the site.</p>	<p>Agreed on the basis of the length of shadow from a 6 storey building on the high end of the street will be significant and likely to cause shadowing of the properties further afield of the adjoining land.</p>
<p>Excavation (geotechnical risks)</p> <p>Deep excavation and close to the boundary (beyond the building footprint) is excessive and existing ground conditions, the precautionary principle should apply and a basement setback of at least 1m should apply.</p> <p>Further investigation should be undertaken in the form of independent advice relating to construction complexity, structural integrity and risk on adjoining land. Possible deferred commencement.</p> <p>The geotech report contains inconsistencies and errors (noting the under allowed depth of 2.65m between geotech report (RL25.48 and RL26.95) and basement 2 section (RL24.30).</p> <p>Architects stated 40 years' experience regards the nil setbacks to proposed depths of excavation almost always end badly.</p> <p>If approved a dilapidation report and vibration monitoring should be provided.</p>	<p>The scale of the excavation is a direct consequence of overdeveloping the site and has not been adequately justified. The submitted geotechnical report contains data errors undermining reliability as to whether genuine consideration has been given to the assessment of protection to adjoining land and buildings on them. Notwithstanding, the depth and extent of excavation is significant and represents a significant departure from DCP side-setback controls for excavation. When coupled with the unsupported built form and design excellence shortfalls, the result is a development unsuitable for the site and is not consistent with the objectives of clause 6.2 of the LEP.</p>
<p>Construction impacts</p> <p>Associated with prolonged noise, vibration, dust and heavy vehicle movement and traffic disruption.</p>	<p>May be conditioned as part of a consent.</p>
<p>Intensity of use</p>	<p>The proposed 6 storey building represents an overdevelopment of the site in this</p>

D24/26

Issue	Comment
<p>High proportion of units including 3-bedroom units in a high transient population raises concerns relating to noise, disturbance and shift from the quiet stable residential character</p>	<p>configuration and built form and represents an overdevelopment of the site across many facets of building design, excavation and amenity impacts.</p>
<p>Precedent and cumulative impacts</p> <p>Approval would set an undesirable precedent for redevelopment of other narrow infill sites within the precinct undermining Councils ability to manage built form outcomes in accordance with adopted precinct studies and DCP controls which erased away heritage and streetscape qualities that define St Marks Road area.</p>	<p>Whilst every application is assessed on its merits, the proposal as a whole does not represent a suitable development for the site or the streetscape character as required by the zone objectives and nor does it contain elements of quality design or design excellence that would contribute to the existing context and neighbourhood or the desired character of the area.</p>
<p>Separation</p> <p>The proposal is inconsistent with the aims of Obj 2f in the ADG and the applicant is cherry picking controls despite the ADG calling for substantially larger separation of 9m for buildings 5 storeys which is substantially higher than the DCP controls. Shallow side setbacks combined with the building height and long depth and inability of landscaping to soften its impact on neighbouring buildings would cause significant impacts (shade, indirect sunlight, ventilation and outlook) on neighbours.</p>	<p>Agreed, the separation from the side and rear boundaries for the built form and scale of development is not representative of good design and represents a substantial shortfall in the ADG controls and design guidance and DCP controls and objectives.</p>
<p>Deep soil, separation extent of excavation and residential amenity.</p> <p>The side boundaries should accommodate deep soil areas in conjunction with the reduced basement footprint that doesn't extend outside the building above footprint in line with the ADG and DCP.</p>	<p>Noted, the proposal would benefit from a reduced basement footprint and deep soil along the side boundaries. The proposal does include landscaped planters along the side boundaries and deep soil provided at the rear does meet the ADG 10% required. However, it is noted that the front yard is limited in so far as it is confined to the planter containing two trees, which takes up a small part of the sites frontage and goes to the heart of the DEAP concerns relating to proposal impacting on the public sightlines to the development.</p>
<p>Lack of sustainability</p> <p>The development should include ceiling fans, solar panels and EV charging facilities.</p>	<p>A BASIX certificate has been submitted with the application that doesn't include solar power.</p> <p>The BCA report anticipates EV charging stations however none are shown on the plans.</p> <p>It is agreed that these sustainability measures would improve the sustainability outcomes for the development.</p> <p>It is also noted that the BASIX identifies AC condensers, however none are shown on the submitted plans.</p>
<p>Buildability</p> <p>The proposed plans indicate the building can be built with 3.2m floor to floor heights however</p>	<p>In general, buildings with 3.2m floor to floor heights are considered acceptable. In relation to the lift overrun it is considered reasonable to require certification of the lift provided and that</p>

Issue	Comment
<p>it is now general standard building practice that a minimum floor to floor height of 3.415m is required, requesting a statement of undertaking and structural documentation that the developer can build at these levels given balcony span and set downs.</p> <p>The proposal also contains limited lift overrun and request certification prior to approval to negate the requirement for a modification application following approval for further height increase and additional adverse impacts such as overshadowing.</p> <p>The development is not fully compliant as stated noting the inadequacy of shadow diagrams and non-compliances with ADG and DCP separation/setbacks, DCP wall heights noting already vulnerable properties to the south.</p>	<p>it meets relevant accessibility requirements for maintenance and the like.</p>
<p>Tree removal</p> <p>The proposal involves the removal of several mature trees that provide habitat for local wildlife. It is highly unlikely that replacement trees can be achieved.</p>	<p>Landscape officer has not raised any objection to the removal of trees upon review of the arborist report and consideration of the proposed replacement planting.</p>
<p>Sewage issues</p> <p>At present, when it rains sewage flows down St Marks Road, water board rectifies the issue for a short while and then appears again indicting that the current sewage line can't copy wot the current residents so the proposal will increase demand on sewage line.</p>	<p>Noted. The application has been referred to Sydney Water on the basis that it will increase demand for such services.</p>
<p>Don't believe they have done the necessary survey work to adequately plan for and address the challenges inherent with the building such as a tall structure on a flood zone which could lead to drawn out construction timelines, disrupting the neighbourhood for extended period of time.</p>	<p>While construction timelines can be affected by site conditions, the developer is required to adhere to a Construction Management Plan. This plan mandates specific work hours, noise mitigation, and traffic management to limit the impact on residents.</p>

Support

- 706/12 St Pauls Street, Zetland
- UNSW employee
- Unknown address

Issue	Comment
<p>Housing supply, social cohesion and heat island effect</p> <p>The provision of spacious family friendly 3-bedroom large apartments is vital to reducing transient accommodation as it would contribute to long term residents and connection to the</p>	<p>Noted, the Apartment Design Guide (Objective 4K) aims to provide housing that supports the needs of the community. In Randwick, the submissions assertions are that families and essential workers are being excluded by a lack</p>

D24/26

<p>community These larger units enable essential works near major education and healthcare hubs to pool resources which reduces societal burden of long-distance commuting. Note, the submission whilst in support also requesting a substantial increase in deep soil and landscaping along the sides (achieved by reducing the basement footprint) to accommodate 40% deep soil in order to reduce the heat island effect).</p>	<p>of diverse stock and that proposed development for 3-bedroom units provides capacity for shared accommodation for essential works (pooled resourced) and ability to live close to the educational and health precincts, which could be seen as a fulfillment of the ADG's goal and encouraging housing supply close to town centres.</p>
<p>Housing supply</p> <p>They support (based on personal displacement) the demolition of the existing structure to build a 6-storey residential flat containing 11 apartments is quite nice and it provides housing to curb overpricing which they claim is 40-60% above construction costs due to undersupply. They conclude that the council has a moral duty to prioritise supply and curb "transient" living forced upon renters by high costs.</p>	<p>This is a critical issue in the LGA and across NSW. While the proposal for a 6-storey building containing apartments does provide housing supply, it does must be addressed having regard to the suitability of the development subject to certain design principles and design excellence both in regard to the existing context and desired future character of the area as a key objective for the R3 zone. The proposal in brief is subject to this assessment throughout this report. It is noted that whilst a 6 storey building is not supported in this current form, an amended scheme that contains Affordable rental housing has the potential to reasonably provide truly affordable housing however this would be subject to clause 20 design requirements for infill affordable housing.</p>

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX Certificate has been submitted, satisfying the requirements of the Environmental Planning and Assessment Regulation 2021 and SEPP (Sustainable Buildings) 2022. The submitted BASIX Certificate includes a BASIX materials index which calculates the embodied emissions and therefore the consent authority can be satisfied the embodied emissions attributable to the development have been quantified.

6.2. SEPP (Transport and Infrastructure) 2021

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

The proposed works are located within 15m of an exposed overhead electricity power line to the north along St Marks Road. As such, the proposal was referred to Ausgrid for comment noting the status is contained in Appendix 1 of this report.

6.3. SEPP (Housing) 2021

Chapter 4 'Design of residential apartment development'

Chapter 4 of the Housing SEPP seeks to improve the design of residential apartment development. The proposed development is subject to Chapter 4 of the Housing SEPP as it involves erection of a new building that is 3 or more storeys and contains at least 4 dwellings.

The proposed development is subject to the provisions of Chapter 4 in that the development is for the purposes of residential flat building, consisting of the erection of a new building that is 6 storey in height and contains 11 dwellings (pursuant to section 144 of the Housing SEPP).

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

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

Design Excellence Advisory Panel (DEAP)

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

The DA was referred to the Design Excellence Advisory Panel for advice concerning the design quality of the development. DEAP has advised that the proposal needed to be revised to address the context and neighbourhood character as well as various matters relating to the principles of quality design and design excellence.

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

Issue	Comment
<p><u>1. Context and Neighbourhood Character</u></p> <p>Proposal complies with height limit but has inadequate setbacks,</p> <p>Urban design justification is insufficient.</p> <p>Panel requests detailed context analysis, including streetscape, setbacks, 3D envelope testing, and amenity impacts (solar, privacy, views).</p>	<p>See discussion in the Key Issues regarding Context and neighbourhood character.</p> <p>Agreed, the application lacks sufficient detail of contextual analysis.</p> <p>Agreed, the application lacks sufficient modelling of potential future development.</p> <p>Agreed, the development is of a bulk and scale that based on the information at hand does not respond to the context and neighbourhood character along St Marks Road or the likely desired future character.</p>
<p><u>2. Built Form and Scale</u></p> <p>Good architectural articulation but building reads as a repetitive vertical stack.</p> <p>Lacks diversity in apartment types and massing variation.</p> <p>Scale is not adequately justified against planning controls (ADG, Housing SEPP, DCP).</p> <p>Recommended improvements:</p> <ul style="list-style-type: none"> • Reduce bulk via upper-level modulation and setbacks. • Introduce varied apartment layouts. 	<p>See discussion in the key issues section of this report regarding built form and scale.</p> <p>There are certain favourable elements such as mixed material, horizontal banding, articulated balcony edges and curved corners, however these are repeated at each level vertically dominant and the lack of diversity across levels and overall size and scale which is considered to be inconsistent with the existing and likely LMR developmental context along the majority of St Marks Road that is for maximum 4 storeys, it is not considered that the proposal provides for a good design in terms of built form</p>

D24/26

Issue	Comment
<ul style="list-style-type: none"> • Reconsider car park entry location. • Improve street and neighbour relationships. • Current side setbacks (1.6–3m) are incompatible with LMR character. <p>Over-reliance on neighbouring sites for amenity (light, privacy).</p> <p>Does not yet positively contribute to the public domain.</p>	<p>and scale. It is not considered that further modulation of the upper levels would achieve a good outcome as they will still be noticeable in the street and would rise over 6m higher than the likely maximum height of development along St Marks Road.</p> <p>The amendments identified by the DEAP may assist in reducing size and scale of the built form, however the overall size and scale would still be considered to dominate the existing and desired future streetscape and locality of St Marks Road.</p> <p>The impact of overshadowing appears significant however it is currently not clear in relation to the amount of solar access that will be retained to the southern neighbour's property.</p> <p>The proposed built form and scale does not improve the quality and amenity of the public domain due to the built form and overall scale as well as the poor street interface and relationship to the public realm. At ground level, the proposal contains very limited deep soil representing only around 15% of the site's frontage, the rest taken up by hardscape areas. In addition, the car park entry location off to the side with minimal side setback is also considered to detract from the streetscape quality.</p>
<p><u>3. Density</u></p> <ul style="list-style-type: none"> • Proposed density not supported in current form. • Requires stronger justification through urban design and context analysis. • Key unresolved issues: <ul style="list-style-type: none"> ○ Building separation ○ Visual privacy ○ Deep soil provision ○ Solar access • Proposal fails to adequately consider future redevelopment of adjoining sites. • Insufficient evidence to demonstrate design excellence. 	<p>Agree. It is considered that the proposal requires reduction in floor area and height as well as greater separation and/or modulation and articulation along the side elevations, which currently contain elements in close proximity to the northern side boundary, and unrelieved southern side elevation that is around 36m in length. A more considered density would be to limit the density to that more in line with the outer area provisions of the LMR.</p> <p>Building separation is well short of the minimum required under the ADG and it exhibits elements at the northern side boundary at 1.6m setback that is well short of the 2.5m minimum side setback required under Part C2 of the RDCP.</p>
<p><u>4. Sustainability</u></p> <p>BASIX compliance achieved.</p> <p>No further concerns raised.</p>	<p>Noted</p>
<p><u>5. Landscape</u></p> <p>Limited landscaping and green amenities.</p>	<p>Agreed particularly at the front of the site where it is limited to around 11% of the site's frontage,</p>

Issue	Comment
<p>Not consistent with St Marks Road character.</p> <p>Needs increased deep soil planting and stronger contribution to public realm (front and rear).</p>	<p>which will be dominated by hard landscaping and the offset nature of the car lift close to the southern side boundary will further exacerbate the lack of landscaping.</p>
<p>6. Amenity</p> <p>Positive intent in internal layout (sunlight, privacy).</p> <p>However:</p> <p>Poor building separation reduces amenity.</p> <p>May negatively impact future neighbouring development.</p> <p>Requires further evidence on separation and overshadowing.</p>	<p>Locating living rooms at front and rear is a positive outcome, however the proposal needs to demonstrate that the sun will penetrate through to the living rooms at the winter solstice and comply with the ADG solar access requirements for living rooms and POS.</p> <p>Proximity of bedroom windows to the southern side reduces the amenity including the use of</p> <p>Perforated screens across the majority of the window faces. Special care needs to be taken such that the perforated screens used for the purposes of privacy protection don't unduly reduce the amenity of these bedrooms.</p> <p>Agreed, further details required for perforated screens.</p> <p>Agreed, further analysis required.</p>
<p>7. Safety</p> <p>Not addressed by Panel.</p> <p>No recommendations.</p>	<p>Using the rear of the site along a stair garden lined through street walkway as an access point is not considered to satisfy CPTED principles.</p>
<p>8. Housing Diversity and Social Interaction</p> <p>Limited apartment mix and diversity.</p> <p>Minimal communal spaces.</p> <p>Not a primary concern but still a weakness.</p>	<p>Agreed. The proposal includes limited apartment diversity and minimal communal spaces, reducing opportunities for social interaction and failing to fully meet ADG COS controls and objectives for diverse and inclusive housing.</p>
<p>9. Aesthetics</p> <p>Strong façade articulation to street and laneway.</p> <p>Insufficient articulation/modulation to side boundaries.</p> <p>Needs better response to scale, separation, and privacy expectations.</p>	<p>Agreed. While the street-facing façade is well resolved, the proposal lacks sufficient modulation and articulation to side boundaries, resulting in unresolved bulk, scale, and visual bulk and overshadowing impacts, and an incomplete response to ADG design principles.</p>

The DEAP concluding comments are in summary that the proposal requires significant redesign before supporting the application noting the following key issues:

- Inadequate setbacks
- Limited urban design justification
- Poor landscape provision
- Amenity impacts (separation, privacy, overshadowing)
- Further context analysis and 3D testing needed, especially considering future LMR development on adjoining sites.

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

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

Design Quality Principles

The comments provided by the DEAP are summarised above and detail how each of the nine quality design principals have been considered in the proposal including comments from the assessing officer.

Apartment Design Guide

The table in Appendix 3 below provides an assessment of the proposal against the relevant design criteria contained in Parts 3 and 4 of the Apartment Design Guide (ADG).

In cases where the development does not satisfy the relevant criteria, the design guidance has been used to determine whether the proposal still meets the relevant objectives. Where further assessment is necessary it is either contained in the table or in the discussion of key issues section of this report.

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

Chapter 6 'Low and mid rise housing'

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

Walking distance

Under the Housing SEPP, walking distance is to be measured as the distance between two points by the shortest route that is reasonably accessible to pedestrians. This requires consideration of routes that are safe, practical, and genuinely available for use, rather than theoretical or contrived paths.

The rear laneway does not function as a genuinely logical or practical access point. It operates as a through-link from Alison Road bounded by garden paths, and high rear boundary fencing without providing a clear or legible route to the site rather than as an entry through to the rear of properties.

The primary and most logical access point is from the eastern frontage along St Marks Road, which is located more than 400 metres walking distance from the Town Centre. This is consistent with the broader locality, where properties along St Marks Road are similarly beyond 400 metres walking distance to the Town Centre, measured to the boundary of 143 Avoca Street.

The rear laneway is unsuitable as a pedestrian access route due to safety constraints. It exhibits characteristics of an entrapment environment, including high fencing, level changes and stairs, limited casual surveillance and the absence of active frontage for properties along this pathway, reduce visibility and user safety.

In these circumstances, reliance on the rear boundary to satisfy the walking distance requirement is artificial and inconsistent with the intent of the Housing SEPP. The appropriate measurement is from the primary frontage along St Marks Road, which would place the site outside the 400 metre walking distance and within the outer area under Chapter 6, attracting a maximum building height of 17.5 metres, a four-storey limit, and a maximum floor space ratio of 1.5:1.

The development should be refused as it relies on an inappropriate and illogical interpretation of walking distance under the Housing SEPP by measuring from the rear boundary of the site, rather than from the primary and most logical point of pedestrian access.

See Appendix 3 for a further assessment against each relevant clause of the LMR housing provisions of the Housing SEPP.

Number of Storeys

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

The proposed development consists of a building with 6-storeys and a height that is less than 22m, however the application has not demonstrated a supportable outcome in terms of the application area as noted above and is recommended to be reduced in storey height accordingly.

6.4. SEPP (Biodiversity and Conservation) 2021

The aims of Chapter 2 are:

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

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

6.5. SEPP (Resilience and Hazards) 2021

Chapter 4 ‘Remediation of land’

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

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

Council’s Environmental Health Officer has reviewed the Preliminary Site Investigation (PSI) and notes that while the site shows a low likelihood of contamination, the findings are not conclusive due to access constraints and identified data gaps, including groundwater presence and contamination at excavation depths. Laboratory results indicate detectable hydrocarbons, and clarification of the intended development type (Residential A or B) is needed to apply the correct health screening levels. The Officers recommendation is to request a Detailed Site Investigation (DSI) to address the above, including full-depth soil and groundwater sampling which would generally use methods that allow testing at depth without triggering full-scale dewatering. Completion of the DSI and any necessary remediation measures is recommended as being required prior to consent to ensure compliance with SEPP Chapter 4 and safe future use of the site.

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

As such, the proposed development is recommended for refusal.

6.6. Randwick Local Environmental Plan 2012 (LEP)

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

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

The objectives for the R3 zone are:

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

The key relevant objectives are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *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 and*
- *To protect the amenity of residents.*

In relation to providing for the needs of the community, in general it is considered to have been partially satisfied noting that a shortfall in communal open space area for occupants falls short of the amenity that should be provided for this scale of development.

In relation to recognition of the desirable elements of the existing streetscape and built form, it is clear from the description of the site and locality that St Marks Road contains substantially smaller scale development - low to medium scale rising to around 4 storeys maximum - than that being sought with this DA. In addition, as discussed by Council's Heritage Planner, the scale sought will detract from the heritage significance of the heritage item on the opposite side of the street.

Whilst the proposed development is within in a precinct undergoing transition being in the "low-and mid-rise housing" area, the proposed development fails to provide a scale of form that contributes to the desired future character of the area. In addition, as indicated by the DEAP, the Applicant has not provided modelling for greater densities resultant from the "low- and mid-rise housing" provisions of the Housing SEPP, to demonstrate what densities are able to be achieved within the precinct. As contained in the reasons for refusal, the proposed 6-storey built form would be inconsistent with the LMR provisions applicable to the majority of sites along St Marks Road, which are located in the outer area and subject to lesser character of 4 storeys and lower density of 1.5:1.

The proposed development will not protect the amenity of residents as it fails to provide sufficient amenity, communal open space, landscaping, solar access, visual amenity, and privacy for both the future occupants of the building and the neighbouring residents.

The proposed development will not encourage housing affordability as the development seeks to provide oversized dwellings which lack a diversity in unit types and configurations, being studio and one-bedroom dwellings, which fails to encourage housing affordability within the locality.

Overall, the proposal is inconsistent with the relevant objectives of the zone in that the proposed activity and built form is excessive resulting in a stark built form within the site that will detract from the existing and desired transitioning character along St Marks Road both in relation to its existing

and desired character and it will also likely result in adverse impacts on the amenity of neighbouring properties in relation to visual bulk, and overshadowing.

The following development standards in the RLEP 2012 apply to the proposal noting that the Low Mid Rise (LMR) provisions under the Housing SEPP override the local provisional clauses:

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max) Site area 652.4m ²	0.9:1 (587.4m ²) 2.2:1 (1435.8m ²) for LMR inner area under Chapter 6 of the Housing SEPP.	2.03:1 (1322m ²) However, it is noted that the proposal contains 6 surplus parking spaces in the basement which equates to 38.88m ² (3 x double stackers) to be added as GFA resulting in an FSR of 2.08:1 (1360.88/652.4m ²). If the basement were converted into three basement levels it would result in any FSR of 2.14:1 (1399.76/652.4) 77.76m ² of additional floor area (6 x 12.96))	No – inner area controls not supported.
Cl 4.3: Building height (max)	12m 22m and 6 storeys for LMR inner area under Chapter 6 of the Housing SEPP	21.63m	No – inner area controls not supported.
Cl 4.1: Lot Size (min)	No minimum lot size of minimum width applies to the site pursuant to Chapter 6 of the Housing SEPP.	Existing site area and dimensions identified in site section of this report	NA

6.6.1. Clause 5.10 - Heritage conservation

Clause 5.10 of the Randwick Local Environmental Plan 2012, requires that development conserve the heritage significance of heritage items and heritage conservation areas, including their associated fabric, settings and views including including associated fabric, settings and views. In addition, Clause 5.10 and Section 1.12 Part B2 (Heritage) of the Randwick Development Control Plan 2023 requires that new development in the vicinity of a heritage item be designed having regard to its likely impact on the heritage significance and setting of that item. The subject site is in close proximity to Farham House on the opposite side of St Marks Road.

D24/26

Councils Heritage planner has reviewed the proposal and considers that the proposal does not satisfy Clause 5.10 requirements for consideration and part B32 of the DCP for the following reasons:

- The proposed development places significant reliance on the Low–Medium Rise Housing (LMR) provisions to justify its bulk and scale, without adequate regard to the immediate context, established streetscape character, or its relationship to the nearby heritage item. The overall scale and massing, combined with the absence of appropriate upper-level setbacks, result in a built form that will be highly visible from the public domain, including St Marks Road, and will have an adverse and irreversible impact on the heritage setting and character of the streetscape.
- The proposal does not demonstrate an appropriate transition in height and scale relative to its context. A more suitable outcome would involve a reduced apparent scale, incorporating a 3–4 storey street presentation with upper-level setbacks, together with a more sympathetic approach to materiality and articulation. Such an approach would better respond to the established streetscape character and the proximity of the heritage item, thereby minimising visual impacts and maintaining the integrity of the heritage setting.

6.6.2. Earthworks

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

There are concerns that the proposed development seeks significant excavation for the two basement levels with Nil setbacks to the northern and southern boundaries, which doesn't meet the minimum 900mm setbacks provisions in the DCP.

Furthermore, the submitted Geotechnical Investigation Report contains inconsistencies (as noted by Council's Environmental Health Officer's comments in Appendix 1 of this report). In summary, the report relies on general references to BEGL (below existing ground levels) and, at times, blends BEGL with AHD, rather than consistently adopting AHD as the reference datum.

A review of the survey spot levels overlaid over the basement 2 plan indicates the following excavation depths which at times exceed those referred to in the Geotech report:

- At front: existing spot level RL34.51 – RL22.83 = 11.68m
- At northern side: existing spot level RL34.28 – RL22.83 = 11.45m
- At southern side: existing spot level RL32.61 – RL24.05 = 8.56m
- At rear: existing spot level RL32.64 0 RL22.83 = 9.81m

Overall, the submitted Geotech report is considered inadequate, given the scale of excavation and the significant potential impacts on the structural integrity of adjoining land and any structures located upon them. It is also noted that a reduction in excavation depth would potentially result in non-compliance with relevant vehicle parking requirements under Part B7 of the RDCP.

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

6.6.3. Clause 6.4 – Stormwater management

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

Council is satisfied that the proposed development will or can be adequately address stormwater management subject to Sydney Water requirements.

6.6.4. Flooding

Clause 5.21 of the RLEP 2012 and section 5.3 in Part B8 of RDCP 2013 requires the design of the proposed development to respond appropriately to the flood impacts on the site.

Clause 5.21(2) of RLEP 2012 states as follows:

- (2) *Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*
- (a) *is compatible with the flood function and behaviour on the land, and*
 - (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
 - (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
 - (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.”*

The site is identified as being subject to overland flow at the front and rear of the site and subject of the Council commissioned Coogee Bay Floodplain Risk Management Study and Plan. Council's Development Engineer has not raised any objection to the proposed development.

6.6.5. Clause 6.8 – Airspace operations

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

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

6.6.6. Clause 6.10 – Essential services

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

Subject to review by Council's Development Engineer, Sydney Water, Water NSW and Ausgrid, it is considered that suitable conditions may be applied to any consent issued for the development.

6.6.7. Clause 6.11 – Design excellence

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

The proposed development was referred to Council's Design Excellence Advisory Panel for comment having regard to Schedule 9 design principles in the Housing SEPP and design excellence objectives. Their comments are contained in Appendix 1 Referrals section of this report. In short, the DEAP does not support the proposal pursuant to the DEAP comments in relation to the Schedule 9 design quality principles – as discussed in the key issues section of this report. For the

reasons identified in the Schedule 9 design quality principles it is not considered that the proposal exhibits design excellence.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

Draft Randwick Development Control Plans

Council 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 part of the Stage 2 review of the existing Randwick DCP 2013, On 18 November 2025, the Draft Randwick Development Control Plan - Part C2 (Medium Density Residential) was reported to an ordinary meeting of the Respondent. The Draft Plan was publicly exhibited until 5 March 2026, and it is anticipated that it will be finalised, endorsed, and come into effect by mid-2026.

Whilst the subject application was lodged before the reporting of the application and prior to formally being made, where relevant the provisions of the draft RDCP 2023 namely Part C2 are also used as a guiding principle to inform the assessment of the DA.

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal does not satisfy the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied. The proposed development is subject to a housing and productivity contribution (HPC) in accordance with section 7.28 of the EP&A

Section 4.15 'Matters for Consideration'	Comments
	Act 1979. Should approval be granted an appropriate condition may be included as a condition of consent.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is inconsistent with the dominant character in the locality.</p> <p>The proposal will 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 a medium density development, however not of a size and scale and site planning approach sought under this development application for this site which will be inconsistent with the existing character and context of the area. The proposed land use and associated structures will present a stark disruption to the likely and desired size and scale of development along St Marks Road. Therefore, the site is considered unsuitable for the proposed development in its current form.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal does not promote the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

R3 zone objectives and LMR provisions

The applicant’s SEE and Design Verification statement asserts that the proposal aligns with the desired future character of St Marks Road relying on the Housing SEPP Low and Mid-Rise Housing (LMR) framework being the “emerging” medium-density character, however as stated by the DEAP, no comprehensive contextual or urban design analysis has been provided to demonstrate how the site and surrounding precinct will transition in form, scale, and character.

The proposal instead demonstrates inadequate setbacks, excessive height and bulk for the site context (six storeys where four is more appropriate), as most if not all of the properties whose primary frontage is to St Marks Road are located within the ‘outer area’ rather than the ‘inner area’, which has a reduced uplift under LMR of 4 storeys instead of 6 and 1.5:1 FSR instead of 2.2:1.

Importantly, a streetscape, block structure, or 3D built form testing against the LMR provisions would likely show that the proposal would not integrate with existing or future LMR development scenarios along St Marks Road noting the concerns raised by using the rear of the site to measure walking distance from.

The increased height and density coupled with the shallow side setbacks (1.6–2.5m) do not achieve appropriate separation or allow for equitable redevelopment of adjoining sites, nor do they align with the Apartment Design Guide expectations for building separation and amenity outcomes. More importantly, the proposal is more likely to represent a stark contrast in height and density than that which will predominate St Marks Road noting also that a heritage item is located in relatively close proximity to the site whose significance will be adversely impacted.

Although the design includes articulation and landscaping measures, these are primarily compensatory responses to an overly intensive built form rather than evidence of genuine contextual responsiveness. The DEAP states that the building reads as a repetitive vertical form with limited variation in massing, resulting in visual bulk that is not resolved through façade treatment alone.

Overall, whilst the submitted materials lack a contextual analysis that demonstrates the proposal will contribute to the LMR transition of the locality and desired future character, the information at hand however suggests that the proposal contains excessive bulk and scale, it doesn't respond to the site conditions such as its east west orientation, the likely LMR application of the outer area envelope controls for the majority if not all the properties along the St Marks Road streetscape and will therefore not contribute to the emerging desired future character.

Heritage conservation

The subject site is not heritage-listed but is located in proximity to Farnham House (Item I366), requiring consideration of potential heritage impacts. The proposed demolition and construction of a six-storey residential flat building has raised concerns regarding excessive bulk and scale, insufficient upper-level setbacks, and adverse visual impacts on the surrounding streetscape and the setting of the nearby heritage item. These issues indicate inconsistency with the heritage objectives of Clause 5.10 of the Randwick Local Environmental Plan 2012 and the relevant controls of the Randwick Development Control Plan 2013. A detailed assessment against Clause 5.10 is provided in the LEP section of this report, and the full heritage comments are included in Appendix 1.

Earthworks

The application fails to provide adequate and consistent information to enable a proper assessment of earthworks impacts, as required under Clause 6.2 of RLEP 2012.

While Clause 6.2 requires consideration of matters such as soil stability, drainage impacts, excavation and fill, effects on adjoining properties, and appropriate mitigation measures, the submitted documentation does not satisfactorily address these requirements.

Key deficiencies include:

- Inconsistent excavation data: Conflicting excavation depths are presented within the report, and independent calculations indicate excavation depths of up to approximately 11.68m, exceeding stated figures and creating uncertainty regarding the true extent of works.
- Unclear level reporting: The documentation inconsistently uses Reduced Levels (RL) and Below Existing Ground Level (BEGL), reducing clarity and reliability of the earthworks assessment.
- Lack of geotechnical justification: There is insufficient detail regarding excavation methodology, structural support, and monitoring for deep excavation, particularly given the proposed nil setbacks to side boundaries.
- Risk to adjoining properties: The scale and proximity of excavation, combined with the lack of supporting technical analysis, raises significant concerns regarding potential land instability and impacts on neighbouring structures.
- Incomplete consideration of Clause 6.2 matters: The submitted material does not adequately address key considerations such as soil stability, drainage, and mitigation measures.

Schedule 9 Design quality and Apartment design guide (ADG)

The proposed residential flat building does not adequately respond to the design quality objectives of Schedule 9 of the Housing SEPP and fails to satisfy the relevant principles of the Apartment Design Guide (ADG 2015), particularly in relation to:

Design Principles

- Context and neighbourhood character (Principle 1)
- Built form and scale (Principle 2)
- Density (Principle 3)
- Amenity (Principle 6), and
- Landscaping (Principle 5).

Apartment design guide (ADG):

- Siting of the building (3A Site analysis /3B Orientation considered in maximising northern aspect and maintaining solar access for neighbours),
- Visual privacy (3F minimum separation),
- Solar access (4A layout to maximise internal solar access and POS & minimise overshadowing of neighbours),
- Facades (4M)
- Roof design (4N)

Approval cannot be supported in its current form for the following reasons:

- Context and Neighbourhood Character (Principle 1 / ADG 3A, 3B, 4A, 3F): The application doesn't contain a comprehensive context study or urban design analysis to justify the proposed bulk and scale. The DEAP recommended investigations include streetscape analysis, 3D envelope testing of adjoining lots under future LMR development, and detailed solar access, and overshadowing assessments.

Notwithstanding that, the proposed side setbacks of 1.6m to the north and 2.5m to the south in combination with the number of storeys are considered inadequate. The setbacks provided are contrary to the following ADG Objectives:

3B Orientation that uses distances as a design solution to ensure new buildings don't overshadow living rooms or POS of neighbouring properties particularly in this instance where the east-west orientation of the site makes the southern neighbour particularly vulnerable to overshadowing.

4A Solar and Daylight Access which uses separation (under Objective 3F – the control is for 6m separation for 4 storeys and 9m for 5-8 storeys) from boundaries to ensure that at least 70% of apartments receive at least 2 hours of direct solar access to living rooms and POS at the winter solstice.

3F Visual privacy which uses separation as a starting point for solar access whereby as indicated earlier requires larger separation for taller buildings.

The ADG (Objective 3F) does allow for reduced separation based on urban context and a constrained site, and additional privacy measures are used. The proposal is constrained noting that portions of the building setbacks do comply with the setback controls of 2.5m for a site of this width (>14m) in Part C2 of RDCP 2013 for medium density development, however it is important to note that this section of the RDCP does not envision residential flat buildings greater than 12 metres (or 4 storeys) in height.

As such, the controls relate to a form significantly smaller than that proposed in this application, which is applying the new "low-and-mid-rise housing" inner area provisions of the Housing SEPP.

Notwithstanding, the absence of a context assessment or urban design analysis, and in reference to the LMR walking distance criteria for inner and outer areas, using the applicant's survey measurement data, and Council mapping system to measure additional distances to the primary frontage of properties along St Marks Road, it reveals that most properties if not all along St Marks Road would be classified as being located within the LMR 'outer area', which applies lesser development standards of 17.5m and 4 storeys and lesser density of 1.5:1 instead of the 22m and 2.2:1 applicable to the inner area and applied for in this DA.

Based on the above, the desired and emerging character of St Marks Road is a maximum of 4 storeys and maximum density of 1.5:1 in contrast to the proposed 6 storey with a 2.03:1 FSR coupled with the ADG non-compliances dictate that the proposed development is not consistent with the Design principle requiring a development to appropriately respond to the context and neighbourhood character of the locality.

- Built Form, Scale, and Density (Principles 2 and 3 / ADG 3A, 3B, 3F, 4A, 4K, 4B; 4N Roof Design):

The Design Excellence Advisory Panel (DEAP) raised a number of concerns in relation to the proposed bulk, scale, and density of the development having regard to the relevant design quality principles, particularly those requiring responsive built form, appropriate separation, and high levels of residential amenity.

While the architectural language demonstrates a degree of design refinement—particularly in the use of curved balcony edges, façade banding, and articulation to the primary street frontage—the overall built form is still characterised by repetitive vertical stacking of floor plates with limited variation in massing (façade modulation), setbacks, or apartment typologies. As a result, the building reads as a continuous and dominant form rather than a composition of distinct, human-scaled elements, and limited visual interest.

The proposal does not adequately achieve the Apartment Design Guide (ADG) objectives relating to building facades (Obj 4K), requiring façade design to contribute to a legible and varied built form, break down building bulk, and provide visual interest through modulation, articulation, and depth. The large continuous wall plates and side elevations do not sufficiently address these objectives, particularly as the long building depths are only minimally interrupted and other only through shallower separation on the northern side.

Similarly, in relation to roof design (objective 4N), the ADG requires roofs to contribute to the overall architectural composition, reduce perceived height and bulk, and integrate services and lift overrun elements within a well-resolved form. The proposed roof form does not demonstrate as achieving these objectives, as it reads primarily as a termination of the repetitive vertical stack rather than an articulated element that reduces perceived bulk and contributes positively to the skyline. The DEAP specifically noted that opportunities for meaningful roof articulation, stepping, or setbacks of upper levels were not fully realised.

In terms of bulk and scale, the proposal also incorporates extensive wall lengths with shallow side setbacks and limited modulation along the side elevations. These conditions contribute to a sense of enclosure and visual bulk and are inconsistent with the intended Low and Mid-Rise Housing (LMR) character, which in combination with the assessment against Chapter 4 of the Housing SEPP better quality design that anticipates more generous separation and finer grain breakup of the building for the purposes of reducing visual bulk.

As indicated in the assessment of the context and neighbourhood character the proposal is considered to represent a poor response to the existing and emerging context of St Marks Road, and a more acceptable approach would more closely align its bulk and scale of a 4-storey built form anticipated for LMR outer areas.

In terms of density, the DEAP stated that the proposed development is considered excessive for the site context and is not adequately justified through evidence-based urban design testing or demonstration of future LMR redevelopment scenarios. The concerns in relation to density align with concerns raised in relation to ADG objectives for built form and scale as well as building separation.

In relation to the ADG such as visual privacy (3F), solar and daylight access (4A), the proposal does not meet the objectives or design guidance. The design approach for the side elevations relies heavily on a combination of privacy screens, high sill heights, as well as restricted openings whilst resolving privacy impacts, it has the alternative impact of reducing otherwise better levels of internal amenity, daylight access, and natural ventilation.

The sites orientation on an east–west axis and natural fall of land to the south also means the southern interface is particularly vulnerable to overshadowing and visual bulk. The excessive built form and density coupled with the shallower than minimum separation requirements unnecessarily intensify these adverse impacts on the southern neighbours, in relation to overshadowing and reduced solar access, particularly at upper levels where separation distances are required to be greater and more responsive to the site's orientation and topography. This further reinforces that the proposed built form and scale and density including setbacks, unrelieved building depths and poor roof form do not appropriately balance development intensity with environmental performance or contextual sensitivity.

Overall, the bulk, scale, and density of the proposal are not considered acceptable having regard to the Schedule 9 Design Quality Principles and the relevant ADG objectives for façades (4M) and roof design (4N). The development does not demonstrate a sufficiently resolved architectural response that reduces perceived bulk, provides adequate façade depth and variation, or delivers a roof form that isn't an articulated element, doesn't reduce perceived bulk and doesn't contribute positively to the skyline.

- **Amenity, Solar Access, and Privacy (Principles 4–6 / ADG 3F, 4A, 4B):** Due to the shallow separation the proposal includes fixed privacy screens along northern balconies and highlight / screened windows with 1.6m sill heights, which limit daylight penetration and ventilation (compliant), compromising internal amenity. In relation to solar access, the application includes only a rudimentary dotted plan (area plan) indicating solar access to balconies; sun view diagrams are considered necessary to demonstrate compliance with ADG Objective 4A – Solar and Daylight Access, which requires at least 70% of apartments to receive 2–3 hours of direct sunlight to living rooms and private open spaces. Shallow setbacks and orientation (in combination with inappropriate bulk and scale and density) compromise amenity for both the subject site and potential future development of adjoining sites.
- **Landscape and Public Realm (Principle 5 / ADG 4C):** Limited deep soil planting and green amenity is provided within the front setback, which is inconsistent with the prevailing character of St Marks Road. It is noted that a minimum 3m dimension is required to qualify as deep soil under the ADG. Opportunities exist to enhance landscape contribution to the public domain, to the front of the site.
- **Housing Diversity and social interaction (Principle 8 / ADG 3D & 4E):** Limited variation in apartment types to 90% of apartments being 3-bedroom apartments suited to families reduce housing diversity and social interaction. The small usable communal open space (COS) in the rear yard is very small taking into account landscaping and travel paths. This reduces its capacity to meet the active and passive recreational needs of these larger family orientated units. Whilst the balconies provided are larger than the minimum required under Obj. 4E POS they contain elements with dimensions of less than 2.4m which whilst acceptable under the ADG enabling areas with minimum depths of 1m to be counted towards balcony sizes it does invariably reduce their functionality and the ability of oversized units by measurement only to offset the COS shortfall and amenity considered necessary for large families.

Overall, having regard to the design quality principles in Schedule 9 of the Housing SEPP and ADG objectives, the DEAP comments relating to the application, it is not considered that the proposal can be supported on Housing SEPP Schedule 9 principals of good design or design excellence under clause 6.11 of the LEP unless substantial redesign including a reduction of built form.

Communal open space (COS)

Objective 3D-1 of the ADG requires a minimum area equal to 25% of the site and with minimum dimensions of 3m, and Section 2.3.2 in part C2 of the RDCP 2013 for residential flat buildings to be designed as follows:

- Of a sufficient contiguous area and not divided up for allocation to individual units.*
- Designed for passive surveillance.*
- Well oriented with a preferred northerly aspect to maximise solar access.*

- (d) *adequately landscaped for privacy screening and visual amenity.*
- (e) *Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.”*

The proposed development comprises a COS with a rear yard area with minimum 3m dimensions totaling ~72.7m² or 11.1% of the site area (652.4m²). The area diagrams indicate other COS areas at the LG northern and LG southern sides of the building. These are inadequate as COS for the following reasons:

- The LG northern side at the front has dimensions of 2.45m and a confined space with floor levels (RL33.20 or RL33.55) partially covered by the ground level walkway (RL35.17) that gives a head clearance of between 1.62m to 1.97m.
- LG northern side area at the rear is a pathway.
- The LG southern side of the building is a planter space and conversion into a trafficable area isn't conducive for the purposes of COS as its located directly outside the bedrooms of the LG level unit and bin room.

Having regard to the ADG design guidance for COS which enables less than minimum COS to be provided on small lots, consideration should be given to the following:

- provide communal spaces elsewhere such as a landscaped roof top terrace or a common room
- provide larger balconies or increased private open space for apartments
- demonstrate good proximity to public open space and facilities and/or provide contributions to public open space”

Having regard to the shortfall in COS, the application includes balconies that are larger than the minimum required under the ADG inclusive of the minimum 1m depth able to be counted as POS, the overall usable area in the rear yard remains very small and can't be relied upon as offsetting or enabling a reduction in COS.

Further, the absence of seating and covered spaces makes it even less usable during poor weather.

Fred Hollows reserve is around 350m from the site, however it is not in immediate vicinity and would not provide the same level of amenity in terms of private usability one would expect from a larger unfragmented area of COS on site.

Overall, the provided usable area of COS on site does not provide good amenity for social interaction for a broad range of people and is inconsistent with Schedule 9 of the Housing SEPP Design Principle 8 (Housing diversity and social interaction).

9. Conclusion

That the application to demolish existing buildings/structures, tree removal and construction of a 6-storey residential flat building comprising 11 apartments (1 x 2-bedroom and 10 x 3-bedroom) and 2 levels of basement parking containing 20 car parking spaces, associated ancillary and landscaping works be refused for the following reasons:

1. Pursuant to Chapter 6 of the Housing SEPP and the definition of walking distance, the identification of the subject site as being located within the “low and mid-rise housing inner area” is not considered to be satisfied. The applicant's reliance on a 400-metre walking distance via a rear pedestrian pathway is not supported, as the pathway does not constitute a safe, direct, and publicly accessible access route having regard to CPTED principles. Accordingly, the site's eligibility for the proposed development controls has not been established.

2. The proposal is inconsistent with the Design Quality Principles under Schedule 9 of the Housing SEPP, particularly in relation to context and neighbourhood character, built form and scale, amenity, and safety. The development does not appropriately respond to its context and results in unacceptable amenity impacts for adjoining properties and future occupants.
3. The proposal fails to achieve compliance with the relevant objectives of the Apartment Design Guide, particularly in relation to building separation (Objective 3F), visual and acoustic privacy, and solar access (Objective 4A). The insufficient setbacks and separation distances result in poor privacy outcomes and reliance on excessive mitigation measures, while the solar access non-compliance results in unreasonable impacts on adjoining properties and future occupants.
4. The application fails to demonstrate that the site is suitable for the proposed use, contrary to Clause 4.6 of the SEPP (Resilience and Hazards) 2021. The Preliminary Site Investigation identifies data gaps, including potential groundwater contamination and uncertainty regarding site classification. In the absence of a Detailed Site Investigation, the consent authority cannot be satisfied that the land is suitable for residential redevelopment.
5. The proposal is inconsistent with the objectives of the R3 Medium Density Residential Zone, as the bulk, scale, and intensity of the development are incompatible with the existing and desired future character of the locality. The proposed six-storey form represents an overdevelopment of the site and is inconsistent with the established and emerging built form along St Marks Road whose properties frontages are located within the “outer area” (400–800 metres from Randwick Junction), where development is intended to be generally limited to four storeys and a 1.5:1 floor space ratio.
6. The proposal fails to satisfy Clause 6.2 (Earthworks), as insufficient information has been provided to demonstrate that the extent of excavation can be undertaken without adverse impacts on soil stability, drainage, or the structural integrity of adjoining properties.
7. The proposal is inconsistent with Clause 5.10 (Heritage Conservation), as it fails to appropriately respond to the setting of the nearby heritage item Farnham House (Item I366). The bulk, scale, and insufficient upper-level setbacks would result in an adverse impact on the heritage curtilage and surrounding streetscape.
8. The proposal does not comply with the relevant provisions of the Randwick Development Control Plan 2013/2023, including:
 - Part C2, Section 3.3: Setbacks
 - Section 4.2 – Roof design requirements
 - Part C2, Section 4.3 – Building design and articulation (maximum wall lengths of 10–12 metres)
 - Part C2, Section 4.4 – External wall height (maximum 10.5 metres)
 - Part C2, Section 5.1 – Solar access and overshadowing controls
 - Part C2 (Built Form Controls generally) – Setbacks and building envelope requirements
9. Non-compliance with these provisions results in excessive bulk and scale, poor building articulation, and unacceptable amenity impacts including overshadowing, loss of privacy, and adverse streetscape presentation.
10. Pursuant to Section 4.15(1)(c), the consent authority is not satisfied that the site is suitable for the proposed development, having regard to its context, environmental constraints, and unresolved contamination risks.
11. Pursuant to Section 4.15(1)(e), the proposed development is not in the public interest due to its inconsistency with the statutory planning framework and the cumulative extent of non-compliances with the Housing SEPP, RLEP 2012, ADG, and RDCP 2013/2023.

Appendix 1: Referrals

1. External referral comments:

1.1. Ausgrid

The site is located within 15m of an electricity power pole and therefore referral was made to Ausgrid under S2.48 of the SEPP Transport and Infrastructure. As of the timing of this report, no comments have been received.

1.2. Sydney Water

The application was referred to Sydney Water corporation under S78 of the Sydney Water Act and as of the timing of this report no comments were provided.

1.3. Sydney Airport Corporation

The application was referred to Sydney Airport Corporation. The lodged application contained approval from Sydney Airport corporation correspondence raising no objection to the erection of this development to a maximum height of 55 metres AHD (Trim reference: D05974003).

2. Internal referral comments:

2.1. Heritage planner

The Site

The subject sit is not an individually listed heritage item. However, it is located in the vicinity of heritage item I366, Farnham House, across the subject site to the east.

Background

PL/48/2019 – pre-lodgement for demolition of the existing building and construction of 4 storey residential flat building (3 storey presentation to the St Marks Road)

Proposal

Demolition of existing buildings/structures, tree removal and construction of a 6-storey residential flat building comprising 11 apartments (1 x 2-bedroom and 10 x 3-bedroom) and 2 levels of basement parking containing 20 car parking spaces, associated ancillary and landscaping works (Low and mid-rise housing).

Submission

*Architectural Drawings
D05974005 – photomontages
D05974028 - SEE*

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 2023 provided Objectives and Controls in relation to heritage properties.

Comments

1. *It is acknowledged that the development proposal's bulk and scale rely heavily on LMR provisions, however, it should have carefully considered its immediate context and impact on the Heritage item in its vicinity.*
2. *With the proposed scale and bulk and lack of appropriate upper-level setbacks the proposed development will be highly visible from surrounding streets including St Marks Street and have irreversible adverse visual impact on settings and character of the streetscape.*

At its current scheme, the development proposal is inconsistent with

- a. *the Objective 1(b) of Clause 5.10 of the RLEP 2012 [Development is] to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, and*
- b. *the following RDCP 2023 objectives and controls*
 - *Any new development adjacent to or in the vicinity of a heritage item or heritage conservation area needs to be considered for its likely effect on heritage significance and setting (Section 1.12 Part B2 Heritage RDCP 2023)*

In order to minimise the impact on the setting/street character and heritage item in the vicinity and to demonstrate compliance with RLEP 2012 and RDCP 2023 it is recommended to

1. *Consider gradual height transitions and greater upper-level setback between the new development and the existing context and streetscape character of single to 3 storey presentation to the St Marks Street.*
2. *A 3-4 storey presentation is considered to be the most appropriate outcome complemented with a greater upper-level and sympathetic bulk and scale, materiality and articulation.*

Recommendation

Please request amended drawings. The proposal should carefully consider the building's context and views and setting and heritage item in the vicinity.

2.2. Environmental Health Officer

Proposed Development:

Demolition of existing buildings/structures, tree removal and construction of a 6-storey residential flat building comprising 11 apartments (1 x 2-bedroom and 10 x 3-bedroom) and 2 levels of basement parking containing 20 car parking spaces, associated ancillary and landscaping works (Low and mid-rise housing).

Comments:

Preliminary Environmental Site Investigation

While it states there is a low likelihood of contamination across the site and says the site "can be made suitable for the proposed use provided the recommendations... are followed", it also explicitly qualifies the findings as not conclusive due to limited access and requires additional sampling after demolition.

In addition, the report confirms that access constraints mean results are not conclusive and recommends additional investigation after demolition.

The PSI identifies specific “data gaps”, including (among other things) the need to confirm groundwater presence and contamination at depths relevant to the works, and to address residual data gaps post-demolition. Council would require this information prior to approval and invasive monitoring should take place to inform a detailed environmental site investigation and close out the data gaps identified in the report.

Given that the proposal includes basement excavation, a DSI should target excavation depth and lateral extents, plus any groundwater/dewatering pathway, construction dewatering can be conditioned to ensure Section 68 approval is required prior to the commencement of dewatering activities onsite. The DMP can be assessed at this time. It does not appear that any permeability testing was undertaken.

Lab results indicate detectable TRH for BH03 – while hydrocarbons are within permitted levels, they are present in the groundwater.

The PSI needs to confirm if they are using “Residential (B) development” or “Residential (A) development” as the report has conflicting references to both types of developments – the type of development determines health investigation levels and health screening levels.

The site is not affected by Acid Sulphate soils and not within 500m of a class 1-4 ASS area.

Geotechnical report

There is conflicting information contained within the report in regard to excavation depths, Early in the report: excavation depths “8.34 m to 10.22 m” (east) and “5.61 m to 6.28 m” (west). Later in the report it states that: excavation depths “8.92 m to 7.35 m” (east) and “5.39 m to 4.96 m” (west). The report does not explain why the depth ranges change, is this due to the sloping site.

Table 3-1 headings blend “RL” (Reduced Level) with “BEGL” (Below Existing Ground Level) (e.g., “Approximate RL to top of Unit (m BEGL)”). RL should be reported in m AHD, not “m BEGL”.

Engineering section to undertake review of geotechnical report to confirm acceptability.

Planner comment: overlaying the survey over the basement 2 plan, the excavation depth to RL22.83 relative to the spot levels surveyed show an excavation depth as follows:

- At front: existing spot level RL34.51 – RL22.83 = 11.68m
- At northern side: existing spot level RL34.28 – RL22.83 = 11.45m
- At southern side: existing spot level RL32.61 – RL24.05 = 8.56m
- At rear: existing spot level RL32.64 0 RL22.83 = 9.81m

The depth of excavation identified in the report is less than that calculated. Notwithstanding this, the depth of excavation is significant and warrants

Hazardous Materials

Due to the age of the property, it is extremely likely that the property contains asbestos and lead paint. Standard Asbestos removal conditions can be included in the conditions of consent.

A hazardous materials assessment should be conducted as per the recommendations in the PSI. This requirement will be conditioned as a standard condition of consent.

Acoustic report

No acoustic report has been submitted to Council as part of the application; therefore, Council cannot conduct a merit-based assessment on the impact of the development for the additional plant e.g. car lift, additional residential plant and equipment. The building layout has been designed to minimise transmission of noise between buildings by locating quiet areas such as bedrooms near each other.

Natural ventilation: All windows are operable except for highlight kitchen windows for fire safety purposes and 100% of apartments are cross ventilated.

The Housing SEPP (2021) and ADG apply to the proposed residential apartments, therefore, the internal noise levels for future occupants and natural ventilation should be satisfied concurrently as there are interdependent on each other and cannot be assessed in isolation.

An acoustic report should be submitted for the development addressing the noise impacts for surrounding residents and internal amenity for future occupants.

Construction noise

A construction noise vibration management plan should be submitted to support the application due to the proximity to nearby noise sensitive receivers.

Waste management

Communal garbage room must be pest proof and provided with a tap and drainage to sewer to allow for cleaning/disinfection of area. Standard condition of consent can be added to cover this requirement.

Submissions

There are a number of submissions in objection to the development mostly in relation to the bulk and size of the property. There are also concerns with the excavation of the two-storey car park and inadequate geotechnical report.

Conversely, there are a few submissions in support of the application in particular for providing affordable housing in the area and providing much needed housing stock in the Eastern Suburbs area.

My comments: In light of Councils Environmental Health Officer, and the disrepair of the building and the fact that demolition has already been approved under a previous DA, it is not considered that the geotech indicated access constraints would be prohibitive to undertaking a Detailed Site Investigation.

2.3. Development Engineer and Landscape Officer

As of the timing of this report referral to the RLPP, Development Engineer and Landscape comments have not been provided.

Parking Provision

The proposal is for 11 units comprising of 1 x 2-bedroom + 10 x 3-bedroom. Under the rate in Part B7 of the DCP the following parking calculations are provided.

Parking Required = **19** spaces (including 3 visitor spaces)

Parking Provided = **25** spaces (including 3 visitor spaces)

Parking Surplus = **6** spaces

Parking Layout

There is a high reliance on mechanical devices with both a car lift and car stackers required to access most of the carspaces. Only the visitors and accessible spaces are not provided within stackers. This is not supported and conflicts with clause 3.2 iv) in Part B7 of the DCP

The height clearance on each of the two parking levels is just under 3.9m. This is an acceptable clearance for stackers but in consideration of the excavation depth required it is likely that 3 levels of normal parking could also be provided without the need for stackers. It should also be noted that the proposed development has a significant parking surplus (6 spaces)

Grades along the internal driveway and external vehicle crossing are not depicted on the plans and it is not currently known if it will comply with Council's requirements. This is important in this case as there is a very steep grade in St Marks Road making any transitional grades to the internal driveway particularly critical Long-sections along the northern and southern extremities of the driveway between the car lift and gutter on St Marks Road shall be submitted for assessment.

Waste Management

The proposed 11 unit development will generate demand for waste bins as per the following

6 x 240L waste bins (red lid) collected weekly
 6 x 240L recycling bins (yellow lid) collected fortnightly
 2 x 240L FOGO bins (green lid) collected weekly)

TOTAL = 14 x 240L bins

Alternatively, as the applicant has proposed 660L bins the following configuration is also acceptable

2 x 660L waste bins (red lid) collected weekly
 2 x 660L recycling bins (yellow lid) collected fortnightly
 2 x 240L FOGO bin (green lid) collected weekly

The proposal generally complies with the above but is short 1 x 240L FOGO bin This can be conditioned

The travel path to take the heavier proposed 660L bins kerbside for collection will involve pushing the bins up a ramp up a slope of 1 in 14 (7.14%). This is generally the maximum permissible however flatter grades are recommended (say 5%) . It's also not clear what the grade of the internal driveway which also forms part of the bin travel path however the actual street frontage on St Marks Road is steep and has an approximate grade of 1 in 7 (14.1%) with north to south fall. The presentation of 660L bin along this frontage would therefore be unsuitable and not supported in this case. It is therefore recommended the waste facilities be designed for 240L bins

Flooding

There are generally two overland flow paths in vicinity of the site. One is restricted to the St Marks roadway and does not even top the kerb for all storm events up to and including the 1% AEP (1 in 100yr) flood event. There are therefore no concerns on this flow path. As a precautionary measure though it is stated in the flood risk management report that the internal driveway has been designed with a high point 100mm above the top of the kerb. This is satisfactory

The other is flowing north to south across the rear of the site with varying depths but up to maximum of 0.7m. Their flood risk management plan identifies this flow path and calculations with regards to floor levels are based form this flow path.

The submitted plans indicate the development will be located predominantly outside of the expected flow path. The proposed ground floor of Unit 1 is depicted at RL 33.20 and is well above

the natural surface level at his point and so meets the requirement of being required to be twice the depth of flow as required by Table A Sec 5.3 Part B8 of the DCP.

The proposal is therefore acceptable from a flood management perspective, and no objections are raised.

The submitted plans indicate the development will be located predominantly outside of the expected flow path. The proposed ground floor of Unit 1 is depicted at RL 33.20 and is well above the natural surface level at its point and so meets the requirement of being required to be twice the depth of flow as required by Table A Sec 5.3 Part B8 of the DCP.

The proposal is therefore acceptable from a flood management perspective, and no objections are raised.

Drainage comments

The proposed development proposes to discharge to a Council pipe located within the public walkway behind the rear of the property.

This is satisfactory provided an On-Site Detention (OSD) system to Council's requirements is provided. This has been indicated on the plans but will also be conditioned.

Landscape officer

- Subject to LMR (Table 6) provisions which requires:
 - 7% Site Area as Deep Soil = 22%. **EXCEEDS/COMPLIES**
 - 15% Tree Canopy Cover = 2 x small sized trees in front setback (28 x 2 = 56sqm) + 3 small sized trees (28 x 3 = 84) & 1 medium category tree (50) in rear setback TOTALS = 190sqm. **EXCEEDS/COMPLIES.**
- Arboricultural Impact Assessment Report by Urban Arbor dated 11/12/25 (Arborist Report) has been submitted. I raise no objections to the removal of vegetation within the development site as proposed due to a combination of their small size, undesirable/exempt species, direct conflict with new works - consistent with the past approval (DA/362/2020). I'm also satisfied that those specimens on neighbouring private properties can be retained unaffected due to the presence of existing structures, setbacks and site-specific mitigation measures.
- Landscape Plans by ATC, rev C dated 15/12/25 have been submitted and while there is space for more significant planting around the perimeter to improve amenity for both occupants and neighbours, technically, they show the required level of detail and treatment and also comply with the controls.

Appendix 2: Housing SEPP Compliance Tables

2.4. Housing SEPP 2021 Compliance Tables

Chapter 4 'Design of Residential Apartment Development' Compliance Table

Standard	Proposal	Compliance
Part 4: Design of residential apartment development		
148 Non-discretionary development standards for residential apartment development		
(2) The following are non-discretionary development standards—		
(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,	The proposed development does not provide sufficient parking specified in Part 3J of the Apartment Design Guide.	No, see Key Issues

D24/26

Standard	Proposal	Compliance
Part 4: Design of residential apartment development		
(b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,	The proposed development provides compliant internal area for the 1 x 2 and 10 x 3 bedroom units.	Yes, complies
(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.	The proposed development provides sufficient F2C heights (2.7m for habitable areas, 2.4m for non-habitable areas).	Yes, complies

Chapter 6 'Low and Mid Rise Housing' Compliance Table

Standard	Proposal	Compliance
Part 4 'Residential flat buildings and shop top housing'		
Division 1 Preliminary		
174 Development permitted with development consent		
Development for the purposes of residential flat buildings is permitted with development consent on land to which this chapter applies in a low- and mid-rise housing area in Zone R2 Low Density Residential or R3 Medium Density Residential.	Proposal is for a residential flat building in a low- and mid-rise housing area in R3 Medium Density Residential.	Yes, complies
175 Development standards—low- and mid-rise housing inner area		
(1) This section applies to land in a low- and mid-rise housing inner area in Zone R3 Medium Density Residential or R4 High Density Residential.	The applicant asserts that the site is located within a low- and mid-rise housing inner area, being within 400m walking distance of the Randwick town centre. This is based on a measurement taken from the rear laneway. However, the rear laneway does not constitute a safe, direct, or practical pedestrian access route, having regard to CPTED principles and lack of legibility. The primary and logical pedestrian access is from St Marks Road, from which the site exceeds 400m walking distance. Accordingly, the site is more appropriately categorised within the low- and mid-rise housing outer area.	I am not satisfied that the site qualifies as land within a low- and mid-rise housing inner area. The applicant's reliance on the rear laneway to establish walking distance is not supported, as it does not represent a reasonably accessible pedestrian route. Therefore, the development standards

Standard	Proposal	Compliance
Part 4 'Residential flat buildings and shop top housing'		
		applicable to the inner area should not be relied upon.
(2) Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.	Proposal = 6 storeys	Yes
177 Landscaping—residential flat buildings or shop top housing		
(1) This section applies to land in a low- and mid-rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	The site falls within a low- and mid-rise housing area in Zone R3 Medium Density.	Applicable
(2) Development consent must not be granted for development for the purposes of residential flat buildings or shop top housing unless the consent authority has considered the <i>Tree Canopy Guide for Low- and Mid-Rise Housing</i> , published by the Department in February 2025.	Proposed DSPA = 29% (being 190m ²). Note conflict between landscape plan and architectural plan in relation to location of lilly pilly in the rear yard.	Yes.
178 Minimum lot size for residential flat buildings or shop top housing		
(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low- and mid-rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	Proposal is for a residential flat building in a low- and mid-rise housing area in R3 Medium Density Residential.	Applicable
(2) A requirement specified in another environmental planning instrument or development control plan in relation to the following does not apply to development that meets the standards in section 180(2) or (3)— (a) minimum lot size, (b) minimum lot width.	Noted	Noted.
Division 2 Non-discretionary development standards—the Act, s 4.15		
180 non-discretionary development standards for residential flat buildings and shop top housing in Zone R3 or R4		
(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low- and mid-rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	Proposal is for a residential flat building in a low- and mid-rise housing area in R3 Medium Density Residential.	Applicable
(2) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing inner area—		
(a) a maximum floor space ratio of 2.2:1,	2.03:1 (994.1sqm)	Yes complies
(b) for residential flat buildings—a maximum building height of 22m,	21.63m (to the roof parapet)	Yes complies

Appendix 3: Apartment Design Guide Compliance Table

D24/26

Clause	Design Criteria	Proposal	Compliance
Part 3: Siting the Development			
3D-1	Communal and Public Open Space		
	Communal open space has a minimum area equal to 25% of the site.	31% (208sqm)	Yes however see comments below
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Achievable, however will likely be overshadowed as a result of future development in the LMR.	See Key Issues

The NSW Apartment Design Guide (ADG) requires that communal open space (COS) comprise a minimum of 25% of the site area and be designed to provide functional, accessible, and usable areas for recreation, social interaction, and residential amenities. The ADG emphasises that, while landscaped areas may contribute to the overall COS calculation, developments must provide a clearly defined “principal usable part” that is capable of accommodating active and passive use by residents.

The architectural plans identify several areas of communal outdoor space across the site, including:

- 72.7m² within the rear yard principle communal open space on architectural plans
- 73m² along the southern side, landscaped planter area
- 36m² along the northern side lawn pathway with dimensions less than 3m
- 25m² courtyard along the northern side towards the front, partially below the ground level entry path with a clearance of approximately 1.4m

In total, these areas amount to approximately 208m² of nominated communal outdoor space across the site representing around 31% of the site area (652.4sqm) and comply with the ADG requirements.

However, the usable area of open (not outdoor) space is limited - based on the landscape plans, - to around 18sqm in the rear of the yard (2.8% of the site area) as shown in this image:



Excerpt from landscape plan.

The 18sqm of usable COS is substandard mainly due to the large number of family orientated 3-bedroom units in the development.

There are also several inconsistencies between the architectural plans and landscape plans as follows: Location of a Lilly Pilly, Location of the entry point from the rear laneway entry point and

Clause	Design Criteria	Proposal	Compliance												
	southern side travel path and Location of groundcover planting (kidney weed) within the same area identified as the primary travel path from the rear laneway on the architectural plans.														
3E-1	Deep Soil Zone														
	Deep soil zones are to meet the following requirements: 3m dimension, 7% site area	Proposed DSPA = 22% (being 143.5m ²).	Yes, complies												
3F-1	Visual Privacy														
	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="368 667 855 1099"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><u>Lower ground and Ground floor</u></p> <ul style="list-style-type: none"> Nil for Ground walkway to north side setback. 522mm for ground car-lift to south side setback and 2502mm/3002mm and 4352mm for main building to south. 6.94m to 7.17m from first floor balcony floor to east rear setback (GF). <p><u>First floor to third floor (4 storeys)</u></p> <ul style="list-style-type: none"> 1.6m to 2.5m to north side setback. 2502mm/3002mm and 4352mm for main building to south. 6.94m to 7.17m from first floor balcony floor to east rear setback (GF). <p><u>Fifth floor to sixth floor (5-6 storeys)</u></p> <ul style="list-style-type: none"> Same as above 	No, see Key Issues
Building Height	Habitable Rooms and Balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													
3J-1	Bicycle and Car Parking														
	<p>For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p>	See development engineers' comments.	Yes												

D24/26

Clause	Design Criteria	Proposal	Compliance
Part 4: Designing the Building			
4A	Solar and Daylight Access		
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at midwinter.	<p>Minimum = 8 (or 7.7 out of 11) apartments</p> <p><u>Proposed living room windows</u> The north-facing elevations are predominantly serviced by highlight windows, which provide limited effective solar access to living rooms, and no evidence has been provided to demonstrate that the east- and west-facing balconies are designed to achieve direct solar access to these living spaces.</p> <p><u>Proposed POS</u> Eastern and western balconies are not designed or at least haven't been demonstrated as achieving the solar access requirements noting that the east facing front balconies have a limited depth at northern side and the west facing balconies have privacy screens that limit solar access through to the balconies and also living rooms.</p>	Not demonstrated.
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	All apartments are identified in rudimentary form as receiving direct sunlight.	As per above not adequately demonstrated.
4B	Natural Ventilation		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	<p>Min = 7 (or 6.6/11) apartments</p> <p>All apartments are cross ventilated.</p>	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	<18m.	Yes, complies

Clause	Design Criteria	Proposal	Compliance															
4C	Ceiling Heights																	
	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> Habitable Rooms – 2.7m Non-habitable – 2.4m Attic spaces – 1.8m at edge with min 30 degree ceiling slope Mixed use areas – 3.3m for ground and first floor <p>These minimums do not preclude higher ceilings if desired.</p>	2.7m to habitable rooms	Yes, complies															
4D	Apartment Size and Layout																	
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> Studio - 35m² 1 bedroom - 50m² 2 bedroom - 70m² 3 bedroom - 90m² 	<p>Min 2 bed = 70m² Min 3 bed = 90m²</p> <p>Proposed 2 bed = 94m² Proposed 3 bed = 104m² and 123m²</p>	Yes, complies															
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Satisfactory	Yes, complies															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Satisfactory	Yes, complies															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Satisfactory	Yes, complies															
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Satisfactory	Yes, complies															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Satisfactory	Yes, complies															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments 	Satisfactory	Yes, complies															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Satisfactory	Yes, complies															
4E	Private open space and balconies																	
	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="368 1749 855 1973"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m²</td> <td>2.4m</td> </tr> </tbody> </table>	Dwelling type	Minimum area	Minimum depth	Studio	4 m ²	-	1 bedroom	8 m ²	2m	2 bedroom	10 m ²	2m	3+ bedroom	12 m ²	2.4m	<p>Oversized balconies provided to the eastern front and western rear with compliant depth and area. Note: Could reduce the usable area of COS provided – subject to assessment.</p>	Yes, complies
Dwelling type	Minimum area	Minimum depth																
Studio	4 m ²	-																
1 bedroom	8 m ²	2m																
2 bedroom	10 m ²	2m																
3+ bedroom	12 m ²	2.4m																

D24/26

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

Appendix 4: DCP Compliance Table

1.1. Part B3: Ecologically Sustainable Development

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

1.2. Part B4: Landscaping and Biodiversity

Council is satisfied that the proposed development meets the landscape requirements in accordance with Section 177(2) of the Housing SEPP and the *Tree Canopy Guide for Low and Mid Rise Housing*, as well as Part B4 of RDCP 2013. Refer to assessment by Council’s Landscape Officer in the Appendix 1 section of this report.

1.3. Part B5: Preservation of Trees and Vegetation

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

1.4. Part B6: Recycling and Waste Management

Council is not satisfied that the proposed development meets the waste requirements in accordance with Part B6 of RDCP 2013. Refer to assessment by Council’s Development Engineer at the Appendix 1 section of this report.

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

Council is satisfied that the proposed development meets the parking requirements in accordance with Section 19(2) of the Housing SEPP and Section 148(2)(a) of the Housing SEPP. However,

there is insufficient information in relation to the driveway design and concerns relating to the justification for so many car stackers in combination with the depth and extent of excavation and whether this represents the best approach to providing for parking on site. Refer to assessment by Council's Development Engineer at the Appendix 1 section of this report and the Key Issues above.

1.6. Part C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance
2.	Site Planning		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area is to be landscaped open space.	Minimum = 55% (359m ²)	Yes, complies
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	Proposed = 22.83% (being 149m ²). Complies with requirements under section 177(2) (Tree canopy Guide) of Housing SEPP.	Yes complies
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.	POS adjoins living rooms, to the east and west with eastern balconies providing passive surveillance.	Yes, complies
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	Complies with ADG requirements.	Yes, complies
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access.	The proposed communal open space is not adequately sized and will likely be overshadowed from future development within the locality noting the skewed rearward and higher land of lots to the north. The area does not show facilities and is	No, see Key Issues

D24/26

D24/26

DCP Clause	Control	Proposal	Compliance
	(d) Adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	fragmented by the rear laneway access.	
3. Building Envelope			
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	Building depth of 7.9m – 8.8m north to south. Dwellings are dual aspects and provide sufficient cross ventilation.	Yes, complies.
3.4	Setbacks		
3.4.1	Front setback		
	(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries. (ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.	Front setback of 4.35m to 4.6m. In an area of transition, considered appropriate.	Yes, on merit.
3.4.2	Side setback		
	Residential flat building (i) Comply with the minimum side setback requirements stated below: - 14m to less than 16m: 2.5m (ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to: - Create articulations to the building facades. - Reserve open space areas	Side setbacks do not comply with the northern side boundary where the building is setback 1.6m from the side boundary. The separation requirements under the ADG are also not complied with for buildings up to 6 storeys in height.	No.

DCP Clause	Control	Proposal	Compliance
	<p>and provide opportunities for landscaping.</p> <ul style="list-style-type: none"> - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	<p>Whilst some portions of the building may comply with the setback controls in Part C2 of RDCP, While the proposal in part complies with Part C2 2.5m setback controls for residential flat buildings above 9.5m in height, these provisions are associated with lower-rise forms (generally up to 3–4 storeys). The proposed 6-storey building exceeds the built form scale.</p> <p>In this context, the Apartment Design Guide (ADG) provides guidance for building separation outcomes, which for buildings exceeding 4 storeys typically requires increased separation to maintain visual privacy and amenity (solar access and visual bulk). The proposed setbacks for the 6 storey development do not achieve these separation outcomes or at least they have not been quantified via modelling noting that from No. 76 St Marks Road and south they would be subject to maximum 4 storeys.</p> <p>Accordingly, although portions of the proposal may partially align with the numeric setback controls of the RDCP, the overall built form is inconsistent with the objectives in relation to visual amenity and overshadowing of both the RDCP and the ADG for mid-rise development.</p>	
3.4.3	Rear setback		

D24/26

D24/26

DCP Clause	Control	Proposal	Compliance
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater (7.29975m).	Between 6.94m and 7.17m.	No.
4. Building Design			
4.1 Building façade			
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs. 	<p>The proposed development has a consistent envelope to all floors at a considerable height and depth (17m northern and 36m southern) where it feels overwhelming when viewed from the public realm (not of a human scale), it fails to divide the building up into segments such as a based, middle and lighter roof or top level elements. This outcome of building design has a form that dominates the site and doesn't contribute to the medium scale of the area along St Marks Road. The built form and architectural treatment are indistinct between the lower floors and upper floors, which detracts from the desirable elements of local character. See design excellence for further details.</p>	<p>No, see clause 6.11 of RLEP assessment above.</p>
4.2 Roof design			
	<ul style="list-style-type: none"> (i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three-dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. 	<p>The roof is not expressed as a distinct form and continues the façade vertically, failing to provide appropriate building termination or visual resolution (DEAP).</p> <p>No roof design elements (eaves, setbacks, or roof shaping) respond to sun access or climatic conditions.</p> <p>Contemporary design flat roof which does not reflect or respond to</p>	<p>No, see key issues section of this report in relation to design excellence.</p>

DCP Clause	Control	Proposal	Compliance
	<p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p>	<p>prevailing roof forms in the streetscape.</p> <p>Overall, the proposal lacks existing contextual modelling that shows smaller built form and also likely future transition of development in the area along St Marks Road which for properties south of the subject site and noted in the design excellence commentary and other sections of this report would mean it lacks a human scale, low levels of articulation and visual differentiation from levels below.</p>	
4.4	External wall height and ceiling height		
	<p>(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.</p>	<p>Control is being removed from stage 2 review of the DCP in the draft DCP.</p> <p>The intent of this control which can still be achieved with other controls such as building and roof design, is to enable a form that divides the envelope into sections that present a human scale and contribute the existing local character of the area.</p> <p>In this regard, the proposed built form and architectural treatment are indistinct between the lower floors and upper floors, which detracts from the existing and desirable elements of local context and the desired future character along St Marks Road.</p>	<p>No.</p>
	<p>(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.</p>	<p>2.7m to habitable rooms.</p>	<p>Yes, complies</p>
4.5	Pedestrian Entry		

D24/26

DCP Clause	Control	Proposal	Compliance
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Entrances clearly distinguishable from front however inconsistency with location of entry off the rear laneway between the landscape plan and lower-ground-level architectural plan.	Yes.
4.6	Internal circulation		
	(i) Enhance the amenity and safety of circulation spaces by: <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 	Satisfactory.	Yes, complies
4.7	Apartment layout		
	(i) Maximise opportunities for natural lighting and ventilation through the following measures: <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.	Design requirements met.	Yes
4.8	Balconies		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m ² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	Design requirements met.	Yes, complies
4.9	Colours, materials and finishes		

DCP Clause	Control	Proposal	Compliance
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. (v) Avoid the following materials or treatment: <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts (vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.	The proposed development includes external walls sections that have a repetitious façade treatment for all floors of the building. The rendered and painted walls over a building of this scale are not supported. See design excellence for further details.	No, see clause 6.11 of RLEP assessment above.
4.12	Earthworks		
	i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification. (This does not apply to swimming or spa pool structures). iv) Setback the outer edge of any excavation, piling or sub4 surface walls a minimum of 900mm from the side and rear boundaries. The thickness of retaining walls and indicative footing locations must be shown on the drawings.	Proposed basement level with nil northern and southern side boundaries. The submitted Geotechnical Investigation Report, is inadequate in considering the submitted development application, its scope of works and potential impacts.	No.

D24/26

D24/26

DCP Clause	Control	Proposal	Compliance
5.	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least three hours between 8am and 4pm on 21 June (mid-winter).	Minimum = 8 (or 7.7) apartments (ADG)	<u>Overridden by ADG controls</u>
	Solar access for surrounding development		
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June. (ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June. (iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.	Submitted solar diagrams don't adequately demonstrate that the proposed development will not overshadow the living rooms windows.	Not adequately demonstrated.
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	Amenity requirements met.	Yes complies.
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences. (iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance. (iv) Locate and design areas of private open space to ensure a high level of	Design and Privacy screening is provided for the rear balconies.	Yes complies.

DCP Clause	Control	Proposal	Compliance
	<p>user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 		
5.5	View sharing		
	<p>(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings.</p> <p>(ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms.</p> <p>(iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</p>	<p>It doesn't appear that submissions received by Council have raised view loss issues only outlook matters of concern and that protected outlooks would be impacted by the subject development.</p>	<p>Adequate.</p>
5.6	Safety and security		

D24/26

D24/26

DCP Clause	Control	Proposal	Compliance
	(i) Design buildings and spaces for safe and secure access to and within the development. (ii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	The main entrance is located along the eastern front boundary; however, the applicant relies on providing access from the rear laneway to apply the LMR provisions which fails to provide adequate safety and security for residents noting that the fencing here is proposed to be 1.8m above ground level.	Yes, from front boundary, however, not from rear laneway. Yes
6. Car parking and access			
6.1	Location		
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	Basement car park provided. The car lift enclosure is offset from the main building form and will appear disjointed.	Partial compliance.
6.2	Configuration		
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as:	See comment above regarding the car lift location.	Partial compliance.

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain. 		

1.7. Part C3: Adaptable and Universal Housing

DCP Clause	Control	Proposal	Compliance
3. Adaptable Housing			
2.1	Site Layout Options		
	i) In addition to the requirements of clause 2(i) controls, a minimum 20% of dwellings in new multi dwelling housing, shop top housing and residential flat buildings containing 10 or more dwellings must be adaptable dwellings and designed and constructed to a minimum Class C Certification under AS 4299 Adaptable Housing.	11 units proposed and units 2 and 4 adaptable.	Yes complies and may be conditioned subject to approval

1.8. Section F3: Sydney Airport Planning and Noise Impacts

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

Responsible officer: Louis Coorey, Senior Environmental Planning Officer

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D24/26