

Randwick Local Planning Panel (Electronic) Meeting

Thursday 8 September 2022



RANDWICK LOCAL PLANNING PANEL (ELECTRONIC)

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting will be held online via Microsoft Teams on Thursday, 8 September 2022

Declarations of Pecuniary and Non-Pecuniary Interests

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ACTING DIRECTOR CITY PLANNING

Development Application Report No. D55/22

Subject: 5 Botany Street, Randwick (DA/398/2021)


Executive Summary

Proposal:	Demolition of existing structures and construction of a part 4 and part 3 storey residential flat building comprising 12 units with basement parking, landscaping and associated works (affordable rental housing proposed).
Ward:	West Ward
Applicant:	ESS Lifestyle Pty Ltd
Owner:	Nishoba Pty Ltd
Cost of works:	\$3,635,000
Reason for referral:	The development is subject to SEPP 65.

Recommendation

- A. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/398/2021 for demolition of existing structures and construction of a part 4 and part 3 storey residential flat building comprising 12 units with basement parking, landscaping and associated works (affordable rental housing proposed), at No. 5 Botany Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Draft Conditions of Consent - DA 398 2021 - 5 Botany Street, Randwick

D55/22

D55/22



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the proposed development is subject to SEPP 65 – Design Quality of Residential Apartment Development (SEPP 65).

The proposal seeks development consent for demolition of the existing structures and construction of a part 4 and part 3 storey residential flat building comprising 12 units with basement parking, landscaping and associated works (with six (6) affordable rental housing units proposed).

The proposed development is generally consistent with the relevant planning provisions including SEPP 65 and associated design guidance within the Apartment Design Guide (ADG), Part 2 Division 1 of SEPP (Affordable Rental Housing) 2009 with regards to in-fill affordable housing, Randwick LEP 2012 and Randwick DCP 2013. The development is permissible within the R3 zone and is considered to be compatible with the desired future character of the area in terms of the overall built form, which is commensurate of a level anticipated for the site and in accordance with the bonus provisions of the ARH SEPP. The proposal as amended is considered to respond well to the constraints of the site and shall not result in any unreasonable amenity impacts upon neighbouring properties or the streetscape, subject to the recommendations with the report. The key issues associated with the proposal relate to non-compliance with landscaping and deep soil provisions, the lack of communal open space, building design and articulation, solar access to the proposed development and visual privacy.

The proposal is recommended for approval subject to non-standard conditions that require additional privacy measures and refinement of colours and materials.

2. Site Description and Locality

The subject site is known as 5 Botany Street, Randwick and has a legal description of Lot 2 in Deposited Plan 320579. The site is regular in shape, being rectangular in shape, and has a total area of 482.9m². The site is a corner allotment with a double street frontage, and is located on the eastern side of Botany Street and the northern side of Silver Street. Vehicular access to the site is gained via the 36.62m frontage to Silver Street and pedestrian access is gained via the 13.385m frontage to Botany Street. The site experiences a fall of 1.67m from the rear eastern boundary down towards the front western boundary, with a slope of approximately 4.47%.

The site is zoned R3 - Medium Density Residential and is currently occupied by an existing residential flat building. The property is surrounded by residential properties to the north, south, east and west. Royal Randwick Racecourse is located to the far west of the subject site. The existing streetscape is a mixture of low and medium density developments, comprising residential flat buildings, semi-detached dwellings and dwelling houses. There is an existing legal boarding house at 3 Botany Street to the north. The architectural style of the area is a mixture of older style developments, however there are examples of newer developments within the surrounding area.



Figure 1 – Botany Street frontage (google streetview).



Figure 2 – Silver Street frontage (google streetview).

3. Relevant history

The land has been used for residential purposes for an extended period of time. A search of Council's records revealed the following recent and/or relevant applications for the site:

DA/221/2020

Development Application DA/221/2020 which sought consent for demolition of existing structures and construction of a 4 storey residential flat building containing 7 apartments under the provisions of SEPP (Affordable Rental Housing) 2009, basement car parking, tree removal, landscaping and associated works (variation to building height standard of the RLEP 2012) at the subject site was lodged on 21 May 2020, however was subsequently withdrawn on 17 June 2020.

DA/443/2020

Development Application DA/443/2020 which sought consent for demolition of existing structures and construction of a four storey residential flat building containing 10 units with 4 units to be used as affordable rental housing, basement car parking, landscaping and associated works at the subject site was lodged on 3 September 2020. A preliminary assessment of the proposal raised concerns regarding building height, external wall height, FSR, local character, landscaping and deep soil, communal open space, building separation, side setback, traffic and parking, waste management, and issues identified by Randwick Design Excellence Panel. In response to the concerns raised, the application was withdrawn.

Subject Application

Development Application DA/398/2021 was lodged with Council on 06 July 2021. The application was referred to Council's Development Engineer and Heritage Planner for comment and/or recommendation.

The application was referred to Randwick Design Excellence Advisory Panel on 16 August 2021. The Panel raised some concerns with the proposal, including the following advice and conclusion:

General Notes

- *The Panel consider this design to be well executed and responsive to the site's unique characteristics and context.*
- *The relocation of the basement entrance to the Botany Street frontage is considered an improvement and delivers a number of benefits to the treatment of the ground plane and interface with neighboring properties (most notably those to the east). This approach places greater emphasis on the building's lobby access on Silver Street, which must negotiate a change in levels (and change in address).*
- *Another change from the previous scheme is bringing the entire building down so that it sits under the height plane. This move has placed considerable pressure on the ground floor units, which are now part/fully subterranean.*

Summary

Given the points above it is the opinion of the Panel that the proposal demonstrates that:

- 1. Further analysis of the site's internal amenity is secured and protected in the long term*
- 2. Greater emphasis should be given to the communal aspects of the building, including the lobby entrance sequence and provision of communal space*

11 February 2022

An informal meeting was held with the Applicant in order to discuss concerns raised as a result of the preliminary assessment. The concerns were primarily in relation to the presentation of the upper most level including the bulk and scale, amenity of the rear Ground Floor level apartment noting that it is sited below natural ground level, and the potential conversion of the Studio apartments to one (1) bedroom apartments. It was also highlighted that concerns had been raised by Council's Development Engineer with regards to parking and vehicular access. A subsequent meeting was held on 7 March 2022 with the Applicant's Traffic Consultant and Council's Development Engineer and Assessment Officer.

13 April 2022

In response to the concerns raised, the applicant submitted amended plans and associated updated documentation which were accepted by Council. The amendments reduced the extent of the upper floor level through increased setbacks, and involved the following changes:

- Increase to car parking by 1 space, the provision of one (1) motorcycle space and additional bicycle storage;
- Amended vehicle ramp gradient and length;
- Additional waste storage area;
- Reduction to the size of the Studio apartments;
- Reduction to the one (1) bedroom apartment 3.01;
- Increased POS;
- Reduction to FSR;
- Additional articulation and modulation.

In response to a request for additional information regarding the applicability of Part 3 of the SEPP ARH, additional information was provided by the Applicant on 21 June 2022.

4. Proposal

The proposal seeks development consent for demolition of the existing structures and construction of a part 4 and part 3 storey residential flat building comprising 12 units with basement parking, landscaping and associated works (with six (6) affordable rental housing units proposed).

Specifically, the Applicant seeks consent for the following works:

- Demolition of existing structures;
- Construction of a part 4 and part 3 storey RFB comprising:
 - Basement Level
 - Six (6) car parking spaces, one (1) motorbike space, seven (7) bicycle spaces, waste room, plant area, pump room, internal lift and access stairs;
 - Ground Floor Level
 - Entrance Foyer, two (2) x two (2) bedroom apartments with courtyards, internal lift and access stairs (both units to be affordable housing apartments);
 - Level 01
 - Four (4) x Studio apartments with adjoining deck areas, internal lift and access stairs (all units to be affordable housing apartments);
 - Level 02
 - Four (4) x Studio apartments with adjoining deck areas, internal lift and access stairs;
 - Level 03
 - Two (2) x one (1) bedroom apartments with adjoining deck areas, internal lift and access stairs;
- Landscaping, tree removal and associated earthworks.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Consultation Plan. No submissions were received as a result of the notification process.

5.1. Renotification

The amended plans resulted in a minor increase to the rear balconies at the First and Second Floor level, as such the amended plans were notified to the adjoining properties. As a result of the notification process no formal written submissions were received, however verbal concerns were raised from the adjoining property owner at 3 Botany Street. The concerns related to visual privacy from the side elevation windows and balconies, and the retention of the existing fence pillar on the common western frontage with No. 3 Botany Street. While no formal submission was received, the concerns verbally raised have been taken into consideration under clause 5.3 of Part C2, RDCP

2013 which relates to visual privacy and privacy measures have been imposed were necessary. Conditions have also been imposed regarding the existing fence pillar.

6. Relevant Environment Planning Instruments

6.1. SEPP (Affordable Rental Housing) 2009

Part 2 New affordable rental housing, Division 1 In-fill affordable housing development

The proposal seeks affordable housing subject to the provisions in Part 2 Division 1 of the SEPP for in-fill affordable housing. The proposal as amended demonstrates compliance with the applicable provisions and objectives. See assessment in Appendix 2, and where relevant, discussion of key issues section of this report. In summary, it is considered that subject to the recommendations, the proposed development satisfies the character test satisfying key envelope controls and therefore the bonus FSR is considered appropriate in this instance.

Clause 16A Character of the Local Area

Clause 16A of the SEPP ARH required Council to consider whether the design is compatible with the character of the local area. It is considered that the area is somewhat under transition noting the age and density of the surrounding developments, therefore consideration has been given to the existing character and desired future character of the area.

The existing RFBs within the vicinity along Botany Street and Silver Street are primarily three (3) and four (4) storey developments.

The proposed development complies with the maximum height provision under RLEP 2012 and the bonus FSR provisions under the SEPP. The proposal maintains the existing setback to Botany Street, provides a compliant 2m side setback to the north and a compliant rear setback to the east. A minor variation is proposed to Silver Street which is supported given it is a secondary streetfrontage and shall not be detrimental to the existing streetscape, with particular regards to consideration of the existing setback and the adjacent corner allotment. While there is a non-compliance with the external wall height, the upper level of the development has been setback from all boundaries to minimise the appearance of the top level and reduce the overall bulk and scale. Furthermore the proposed building footprint is not considered to be excessive, noting a minor variation to the landscaped open space requirements of 46.17%. As such, the proposed built form is not considered to be excessive and would be commensurate of a level of development anticipated for the site. It is also noted that the proposed development would not be dissimilar in height and scale to the newer development at 1-7 Waratah Street. In view of the above, it is considered that the proposed development would not be incompatible with the existing or desired future character of the area.

Part 3 Retention of existing affordable rental housing

The subject site and existing RFB is currently under single ownership. As the building has not been strata subdivided, nor is social housing provider accommodation or housing for seniors or people with a disability, consideration was given to whether the provisions of Part 3 of SEPP ARH in relation to the retention of affordable rental housing was applicable.

It should be noted that the ARH SEPP was repealed on 25 November 2021, with the provisions of the ARH SEPP incorporated into the new SEPP (Housing) 2021. Schedule 7 of the Housing SEPP contains saving provisions which states that the former provisions of a repealed instrument continue to apply to a development application made, but not determined, before the commencement of the SEPP. As the subject application was lodged prior to the commencement of the new Housing SEPP, the provisions of Part 3 of the ARH SEPP are still applicable. Notwithstanding, it is noted that Part 3 of the Housing SEPP is consistent with the previous provisions and therefore assessment of the development would remain consistent with the SEPP (Housing) 2021.

Part 3 Retention of existing affordable rental housing, pursuant to the ARH SEPP is applicable to determine whether the proposal will result in a reduction in affordable rental housing, and therefore

whether a monetary contribution might be considered to substitute any loss pursuant to Section 51 of the ARH SEPP.

The ARH SEPP defines a low-rental dwelling as follows:

“low-rental dwelling means a dwelling that was let at a rental not exceeding the median rental level at any time during the relevant period, as specified in the Rent and Sales Report, in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.”

The relevant period is defined as “the period commencing 5 years before the day on which the development application involving the building is lodged and ending on that day.”

In response to Council’s request for additional information, the Applicant submitted details on behalf of the owner of the rents received in the 5 year period prior to the lodgement of the application, however could only obtain details of the rental income from April 2019 through to 30 June 2021 being the period of which the site was under their ownership, by way of a copy of the rental statements from the real estate agent.

Based on Council’s records and the documentaiton provided, the existing three (3) units comprise the following:

- Unit 1 – Three (3) bedrooms;
- Unit 2 – One (1) bedroom;
- Unit 3 – Three (3) bedrooms.

The quarterly rent and sales reports published by the Department of Human Services for the relevant period provides the following data:

Median rent of Units in Randwick LGA

Quarter	Median Rent – 1 Bedroom	Median Rent – 3 Bedroom
March 2019	\$500	\$900
June 2019	\$500	\$840
September 2019	\$480	\$820
December 2019	\$500	\$850
March 2020	\$500	\$850
June 2020	\$450	\$750
September 2020	\$450	\$745
December 2020	\$430	\$710
March 2021	\$450	\$750
June 2021	\$450	\$750

The information submitted to Council identifies that the three (3) existing units have been rented out as follows:

Month	Unit 1 Weekly Rental Rate	Low- rental dwelling	Unit 2 Weekly Rental Rate	Low- rental dwelling	Unit 3 Weekly Rental Rate	Low- rental dwelling
April 2019	\$720	YES	\$460	YES	\$720	YES
May 2019	\$720	YES	\$460	YES	\$720	YES
June 2019	\$720	YES	\$460	YES	\$720	YES
July 2019	\$720	YES	\$460	YES	\$720	YES
August 2019	\$750	YES	\$460	YES	\$720	YES
September 2019	\$750	YES	\$460	YES	\$720	YES
October 2019	\$750	YES	\$460	YES	\$720	YES
November 2019	\$750	YES	\$460	YES	\$720	YES
December 2019	\$750	YES	\$460	YES	\$720	YES
January 2020	\$750	YES	\$460	YES	\$720	YES
February 2020	\$750	YES	\$460	YES	\$720	YES

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March 2020	\$750	YES	\$460	YES	\$720	YES
April 2020	\$750	-	\$460	-	\$720	YES
May 2020	\$750	-	\$460	-	\$720	YES
June 2020	\$750	-	\$460	-	\$720	YES
July 2020	\$750	-	\$460	-	\$720	YES
August 2020	\$750	-	\$460	-	\$720	YES
September 2020	\$750	-	\$460	-	\$720	YES
October 2020	\$750	-	\$460	-	\$720	-
November 2020	\$750	-	\$460	-	\$720	-
December 2020	\$750	-	\$460	-	\$720	-
January 2021	\$750	-	\$460	YES	\$720	-
February 2021	\$750	-	\$460	YES	\$825	-
March 2021	\$750	-	\$420	YES	\$825	-
April 2021	\$750	-	\$420	YES	\$825	-
May 2021	\$750	-	\$420	YES	\$825	-
June 2021	\$750	-	\$420	YES	\$825	-
July 2021	\$750	YES	\$420	YES	\$825	-

The information provided demonstrates that all three (3) units were rented at less than the median at some point within the 5 years prior to the Development Application being lodged, resulting in three (3) low-rental dwellings at the property. Therefore, Part 3 Retention of existing affordable rental housing, pursuant to the ARH SEPP is applicable to determine whether the proposal will result in a reduction in affordable rental housing, and therefore whether a monetary contribution might be considered to substitute any loss pursuant to Section 51 of the ARH SEPP.

Clause 50 (2) of the ARH SEPP states:

(2) In determining a development application referred to in subclause (1), the consent authority is to take into account the guidelines and each of the following:

- (a) whether there is likely to be a reduction in affordable housing on the land to which the application relates,*
- (b) whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation,*
- (c) whether the development is likely to cause adverse social and economic effects on the general community,*
- (d) whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation,*
- (e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area,*

Assessing Officer's Comment: The proposal seeks consent for the demolition of the existing building. Based on the data submitted, it is concluded that there will be the reduction of three (3) low-rental dwellings. However, the application is made pursuant to the ARH SEPP and provides for six (6) affordable housing units within the development.

The existing low-rental dwellings comprise 2 x 3 bedroom units and 1 x 1 bedroom unit, equating to a total of seven (7) bedrooms. The proposed development allocates 2 x 2 bedroom units and 4 x studio units as affordable housing in accordance with the ARH SEPP, providing a total of eight (8) bedrooms as affordable housing.

The ARH SEPP guidelines states that clause 50(2)(a) is the most fundamental criteria in considering the reduction of affordable housing, and will determine how each of the other criteria is assessed. Furthermore, the guidelines require consideration of any new affordable accommodation being provided on the site which offsets the loss of existing low rental accommodation on the site, which may result in a nil net loss or gain in low rental accommodation.

In view of the above, while it is noted that there shall be a change to the type of apartments, it is considered that there shall be no net loss of affordable rooms available on the site and the overall number of affordable units shall be increased. As such there shall not be a reduction of affordable housing on the land, nor will the development contribute to any cumulative loss of affordable housing in the LGA.

The applicant has not identified any alternative arrangements for the existing tenants within the building. A condition is recommended to ensure this occurs.

- (f) *the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements,*

Assessing Officer's Comment: The proposal seeks demolition of the existing building.

- (g) *whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development,*

Assessing Officer's Comment: As the development will not result in any net loss of affordable housing at the subject site and will increase the overall number of affordable bedrooms, a monetary contribution for the purpose of affordable housing is not considered warranted or necessary in this instance.

- (h) *in the case of a boarding house, the financial viability of the continued use of the boarding house.*

Assessing Officer's Comment: The existing development is not identified as being a boarding house and therefore subclause 2(h) is not applicable.

- (3) *For the purposes of subclause (2) (b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation for Sydney as published monthly by the Real Estate Institute of New South Wales is, for the 3 months immediately preceding the date of lodgment of the development application, less than 3 per cent.*

Assessing Officer's Comment: The average vacancy rate for the 3 months immediately preceding the date of lodgment (being April, May and June 2021) is 3.5% based on the data published by the Real Estate Institute of New South Wales. Notwithstanding, the ARH SEPP guidelines state:

If the Sydney vacancy rate is equal to or exceeds 3% in the preceding quarter, then it is open to the applicant to demonstrate that adequate comparable accommodation is available in the locality.

The Applicant has not demonstrated that adequate comparable accommodation is available in the locality. Notwithstanding, given that the proposal shall not result in any reduction in affordable housing on the subject site due to the proposed affordable housing component, further assessment of the comparable accommodations is not considered necessary.

- (4) *For the purposes of subclause (2) (h), the continued use of a boarding house is financially viable if the rental yield of the boarding house determined under clause 51 (5) not less than 6 per cent.*

Assessing Officer's Comment: The existing development is not identified as being a boarding house and therefore subclause 2(h) is not applicable.

In view of the above, it is considered that the proposed development, involving the demolition of the existing low-rental residential building, shall not result in a reduction to the availability of affordable housing on the land or within the area. In accordance with Clause 51 of the ARH SEPP, a condition is therefore not considered necessary in this instance as there shall be no net loss of affordable housing.

6.2. SEPP (Housing) 2021

During the course of the assessment of the application, the new SEPP (Housing) 2021 was gazetted and came into force on 26 November 2021. The new Housing SEPP shall replace the ARH SEPP, with Part 2 of the new Housing SEPP applicable to the proposed development.

While the new Housing SEPP contains saving provisions and the subject application will ultimately be determined under the ARH SEPP, consideration of the new Housing SEPP has been undertaken in accordance with the provisions of 4.15 of the Act. The provisions of Part 2 of the Housing SEPP are primarily consistent with the provisions of the ARH SEPP with particular regards to the do not refuse standards and non-discretionary standards, and design requirements. As such, it is considered that the proposed development would remain consistent with the relevant provisions under the new Housing SEPP.

6.3. SEPP (Building Sustainability Index: BASIX) 2004

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

6.4. SEPP (Vegetation in Non-rural Areas) 2017

The Vegetation SEPP came into effect in NSW on 25 August 2017. The aims of the Vegetation SEPP 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.”

Clause 7(1) requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). Consent for the removal of vegetation within the site is being sought under this DA.

Assessing officer's comment:

The proposed development requires the removal of one (1) tree within the front setback of the site, however the existing tree proposed for removal is considered to be of low value or low significance. Conditions of consent shall be imposed to ensure trees identified for retention on adjoining land can be safely retained. Council's Landscape Officer raised no objection to the proposed tree removal subject to recommended conditions of consent. A detailed assessment of the proposed tree removal can be found in Appendix 1 under the Development Engineering referral comments.

SEPP (Biodiversity and Conservation) 2021

The Biodiversity and Conservation SEPP came into force on 2 March 2022. The new Biodiversity and Conservation SEPP shall replace the SEPP (Vegetation in Non-rural Areas) 2017, with Chapter 2 of the new Biodiversity SEPP applicable to the proposed development. Consideration of the new Biodiversity SEPP has been undertaken in accordance with the provisions of 4.15 of the Act.

The provisions of the Vegetation SEPP have generally been transferred over to the new Biodiversity and Conservation SEPP with particular regards to when a permit from Council is required to remove vegetation and the considerations for Council when granting consent to remove vegetation. As such, it is considered that the proposed development would remain consistent with the provisions of the new Biodiversity and Conservation SEPP, noting the comments and justification above.

6.5. SEPP No. 65 – Design Quality Residential Flat Buildings

The proposed development is for a residential flat building that is part three (3) and part (4) storeys containing twelve (12) dwellings, therefore SEPP 65 is applicable to the proposed development.

In accordance with Clause 28 of SEPP 65, the development was referred to Council's Design Excellence Advisory Panel ("DEAP") who assessed the development against the design quality principles of SEPP 65 (refer to Appendix 1). The DEAP advice was considered and amended plans/additional information provided to address the concerns. The amended proposal is considered to have satisfactorily addressed the DEAP comments, subject to conditions, or provided justification for any non-compliances with particular regards to the provision of communal open space. As such re-referral to the Panel was not considered necessary in this instance. The amended development is assessed as being in accordance with the design quality principles of SEPP 65.

An assessment has also been carried out against the design criteria of the Apartment Design Guide ("ADG") (refer to Appendix 3). In summary, the development complies with the majority of the design criteria with the exception of communal open space, solar access and in relation to building separation (with regards to visual privacy). The proposed variations are assessed as part of the Key Issues section and are supported as the development achieves the objectives of the criteria and the design guidance subject to conditions.

Clause 30 of SEPP 65 provides standards that cannot be used as grounds to refuse development consent, which include:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

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

Assessment Officer comments:

As the development includes affordable housing units, the parking rate is determined by the SEPP ARH. Council's Development Engineer has advised that sufficient car parking is provided on site. Refer to Development Engineering comments as part of Appendix 1.

(b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,

Assessment Officer comments:

The proposed development is compliant with the minimum internal areas specified by Part 4D of the ADG. The proposal provides the following internal areas:

- Unit G.01 is a 2-bedroom apartment with 1 bathroom. Minimum requirement for internal area is 70m² and an internal area of 70m² is proposed.
- Unit G.02 is a 2-bedroom and 2-bathroom apartment. Minimum requirement for internal area is 75m² and an internal area of 88m² is proposed.
- Unit 1.01 is a Studio apartment with 1 bathroom. Minimum requirement for internal area is 40m² and an internal area of 40.47m² is proposed.
- Unit 1.02 is a Studio apartment with 1 bathroom. Minimum requirement for internal area is 40m² and an internal area of 40.47m² is proposed.
- Unit 1.03 is a Studio apartment with 1 bathroom. Minimum requirement for internal area is 40m² and an internal area of 40.47m² is proposed.
- Unit 1.04 is a Studio apartment with 1 bathroom. Minimum requirement for internal area is 40m² and an internal area of 40.47m² is proposed.
- Unit 2.01 is a Studio apartment with 1 bathroom. Minimum requirement for internal area is 40m² and an internal area of 40.47m² is proposed.
- Unit 2.02 is a Studio apartment with 1 bathroom. Minimum requirement for internal area is 40m² and an internal area of 40.47m² is proposed.
- Unit 2.03 is a Studio apartment with 1 bathroom. Minimum requirement for internal area is 40m² and an internal area of 40.47m² is proposed.
- Unit 2.04 is a Studio apartment with 1 bathroom. Minimum requirement for internal area is 40m² and an internal area of 40.47m² is proposed.

- Unit 3.01 is a 1-bedroom apartment with 1 bathroom. Minimum requirement for internal area is 50m² and an internal area of 50.2m² is proposed.
- Unit 3.02 is a 1 bedroom apartment with 1 bathroom. Minimum requirement for internal area is 50m² and an internal area of 58.84m² is proposed.

(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Note. The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

Assessment Officer comments:

Minimum required ceiling height is 2.7m for habitable rooms and 2.4m for non-habitable rooms. All levels provide floor to floor heights of 3.1m or 3.2m ensuring that minimum internal ceiling heights of 2.7m for habitable rooms can be achieved.

- (2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:*
- (a) the design quality principles, and*
 - (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

Assessment Officer comments:

Adequate regard has been given to the SEPP 65 design quality principles and the ADG design criteria as a design verification statement was submitted prepared by a registered architect stating that the design quality principles and ADG design criteria are generally achieved.

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and*
- (b) the design criteria specified in subclause (1) are standards to which section 79C (2) of the Act applies.*

6.6. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R3 Medium Density Residential under Randwick Local Environmental Plan 2012 and the proposed development, being a residential flat building is permissible with consent.

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the housing needs of the community and encourage housing affordability, will not be inconsistent with the streetscape or the desired future character of the area (noting the area is considered to be under transition), and will not result in any unreasonable amenity impacts upon surrounding residents, subject to the recommendations within the report.

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 under RLEP 2012, 1.4:1 pursuant to SEPP ARH (676.06m ² of GFA)	1.33:1 or 643.79m ² of GFA.	Yes
Cl 4.3: Building height (max)	12m	11.15m	Yes

6.6.1. Clause 5.10 - Heritage conservation

The subject site is located within the vicinity of a local heritage item, located at 4-8 Silver Street. As such the application was referred to Council's Heritage Planner for comment and/or recommendations who concluded that no objections were raised to the proposed development subject to recommended conditions. Detailed comments can be found in Appendix 1.

Assessment Officer comments:

Council's Heritage Planner has advised that the proposed development shall not have a detrimental impact upon the heritage item within the vicinity of the site. While the colour scheme is generally supported, further refinement is required in relation to articulation of the Silver Street façade. A condition of consent shall be imposed for the updated colour scheme to be submitted to and approved by Council prior to the issue of the Construction Certificate.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

The relevant provisions of the DCP are addressed in Appendix 4.

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</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. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No formal submissions were received during the course of the application. Verbal concerns raised have been addressed in the report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

Landscaping and Deep Soil Areas

- **Clause 14 of SEPP ARH**
- **Objective 3E (Deep soil zones) of the ADG**
- **Subclause 2.2.1 (Landscaped open space) of Part C2, RDCP 2013**
- **Subclause 2.2.2 (Deep soil area) of Part C2, RDCP 2013**

The proposed development incorporates affordable housing and therefore the application is made pursuant to SEPP (Affordable Rental Housing) 2009. Clause 14 of the ARH SEPP stipulates standards that cannot be used to refuse consent. Clause 14(1)(c) and (d) relate to landscaping provisions and require the following:

- *Landscaped area – at least 30% of the site area is to be landscaped.*
- *Deep soil zones – in relation to that part of the site not built upon*
 - *there is a soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area; and*
 - *each area forming part of the deep soil zone has a minimum dimension of 3 metres, and*
 - *if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area.*

The definition of “landscaped area” pursuant to the Standard Instrument is as follows:

landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

The proposal includes a basement car park which occupies a significant portion of the site. As such, the area of the site not occupied by building is limited and therefore the proposed landscaped area (in accordance with the above definition) is 11.47% or 55.42m² which does not comply with the standard. The deep soil areas, which are a minimum of 3m in width, contribute to approximately 8% of the site or 38.97m².

The shortfall in landscaped area and deep soil area can be attributed to the extent of the basement level across the site. However, the proposal includes several landscaping areas throughout the site located above the basement and several planter boxes throughout the levels of the building which contributes to the overall landscaping. As such, approximately 49.46% of the overall site area is provided for the purpose of landscaping, with 31.5% provided at ground level.

As the proposal is for a residential flat building, the provisions of SEPP 65 and the ADG are also applicable. The ADG requires a minimum of 7% of the site to be deep soil zones. No minimum dimensions are provided for the purpose of deep soil areas for sites less than 650m², in which the site is, being 482.9m². As the proposal provides a minimum of 8% of the site as deep soil planting, the proposal complies with the minimum provisions of the ADG.

While the provisions of SEPP ARH and SEPP 65 prevail, consideration is also given to the medium density provisions of Part C2 of RDCP 2013 in relation to landscaping and deep soil areas. Clause 2.2 of Part C2 require a minimum of 50% of the site area to be landscaped open space and a minimum of 25% of the site to be deep soil areas, with no minimum numerical dimensions specified. The proposed development shall have landscaped open space equating to 46.17% of the site area, and deep soil areas of 11.47%.

The objectives of clause 2.2 aim to ensure that landscape open space is provided of sufficient size to be used for recreational activities or growing substantial vegetation, to reduce impermeable surface cover and reduce stormwater run-off, improve stormwater quality and improve the amenity of open space with landscaped design.

While the proposed development results in non-compliance with the minimum deep soil areas and landscaped open space, the proposal includes additional landscaping in the form of planter boxes and areas located on top of the basement roof, upper level roof and balconies for planting and vegetation. As such, as outlined above the area of site utilised for planting shall be approximately 49.46% of the site. The landscaped open space results in a minor non-compliance of 3.8%, the proposal provides generous setbacks to the east and west, and compliant setback to the north and the building footprint is not considered to be excessive. Furthermore, the landscaped open space comprises a combination of soft and hard landscaping. Council's Development Engineer raised no concerns regarding the stormwater management of the site, subject to recommended conditions. As such, the proposal is considered to be consistent with the objectives of the control and is supported in this instance.

In view of the above, the proposed development is considered to provide a balance between built form and open space, and provide adequate areas throughout the site for the purpose of plantings and landscaping. Furthermore, given that the proposal complies with the minimum requirements of the ADG in regards to deep soil areas and landscape open space, refusal of the application based on landscaping provisions would not be warranted in this instance, and therefore the variations are supported.

Communal Open Space

- **Objective 3D (Communal and public open space) of the ADG**
- **Subclause 2.3.2 (Communal open space) of Part C2, RDCP 2013**

Objective 3D-1 of the ADG requires a minimum area for communal open space equal to 25% of the site area, with the communal area to receive a minimum of 2 hours of sunlight in midwinter. However, the objective acknowledges that some developments may not be able to achieve the design criteria and the provision of COS, with particular regards to small lots. The subject site is considered to be a smaller allotment, having a site area of 482.9m². 3D-1 recommends that where developments are unable to achieve the design criteria, the following should be considered:

- *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*

A roof terrace would require additional roof top structures to access the area adversely attributing to the bulk and scale of the development, and would likely result in adverse amenity impacts upon surrounding properties with regards to visual and acoustic privacy given the proximity of the proposed development to the neighbouring properties. As such, in this instance it is considered that a roof terrace would not be an appropriate solution.

To compensate for the lack of COS, the proposed development provides private open space areas in excess of the minimum requirements under the ADG, with the following areas provided:

- Studio apartments – 4m² required, 5m² proposed with an additional planter box along the outer edge of the balcony.
- One bedroom apartments – 8m² required, 15m² and 16m² respectively, with planter box located adjacent to and around the perimeter of the balconies.

- Two bedroom apartments (located at Ground level) – 15m² required, 18m² and 26m² courtyard areas, with substantial landscaped areas in addition to the courtyards.

The subject site is located approximately 138m from Writtle Park which is a public park over 4500m² in area located to the south-west. The park comprises a lawn area, canopy trees and a children's play area.

The objective 3D-1 seeks to enhance residential amenity for occupants and provide opportunities for landscaping.

Subclause 2.3.2 of Part C2 of RDCP 2013 also requires communal open space to be provided for residential flat buildings, however no minimum numerical area is provided. The objective of clause 2.3 aims to ensure that useful areas of private and communal space for outdoor living and recreation to serve the needs of residents is provided to enhance their quality of life.

The areas of POS are well integrated with landscaping to improve the visual outlook and amenity of the areas. In view of the size of the site, increased POS and the proximity of the public park to the south-west, it is considered that in this instance despite the lack of COS, the proposal can achieve the objectives of the ADG and subclause 2.3.2 and therefore is supported in this instance.

Solar Access

- **Clause 14 of SEPP ARH**
- **Objective 4A-1 (Solar and daylight access) of the ADG**
- **Clause 5.1 (Solar access and overshadowing) of Part C2, RDCP 2013**

The ARH SEPP states that the consent authority cannot refuse consent to the development if 70% of the apartments receive a minimum of 3 hours of sunlight in midwinter between 9am and 3pm. The provisions of the ADG require a minimum of 2 hours of sunlight to 70% of apartments between 9am and 3pm in midwinter, and RDCP 2013 requires a minimum of 3 hours of direct sunlight in midwinter to 70% of apartments between 8am and 4pm.

Due to the east-west orientation of the site and the design of the POS which is roofed and partially enclosed, the proposed development does not comply with the above requirements. Clause 14(1)(e) of the AHR SEPP is a "cannot not refuse" standard and therefore Council can grant consent to a development which does not comply with the provisions provided it is appropriate to do so and that the proposal achieves the objectives of the policy. As such, consideration has been given to the requirements of the ADG and RDCP 2013 with regards to solar access. The proposed development provides direct solar access as follows:

Living Areas

Unit	Solar Access 9am-3pm	Compliance SEPP ARH	Compliance ADG	Solar Access 8am-4pm	Compliance RDCP 2013
G.01	2 hours	x	✓	3 hours	✓
G.02	6 hours	✓	✓	8 hours	✓
1.01	6 hours	✓	✓	8 hours	✓
1.02	1 hour	x	x	2 hours	x
1.03	6 hours	✓	✓	8 hours	✓
1.04	Nil	x	x	1 hour	x
2.01	6 hours	✓	✓	8 hours	✓
2.02	1 hour	x	x	2 hours	x
2.03	6 hours	✓	✓	8 hours	✓
2.04	Nil	x	x	1 hour	x
3.01	6 hours	✓	✓	8 hours	✓
3.02	6 hours	✓	✓	8 hours	✓
Percentage		58%	66%		66%

Private Open Space

Unit	Solar Access 9am-3pm	Compliance SEPP ARH	Compliance ADG	Solar Access 8am-4pm	Compliance RDCP 2013
G.01	4 hours	✓	✓	5 hours	✓
G.02	4 hours	✓	✓	5 hours	✓

1.01	2 hours	x	✓	3 hours	✓
1.02	2 hours	x	✓	3 hours	✓
1.03	2 hours	x	✓	3 hours	✓
1.04	2 hours	x	✓	3 hour	✓
2.01	2 hours	x	✓	3 hours	✓
2.02	2 hours	x	✓	3 hours	✓
2.03	2 hours	x	✓	3 hours	✓
2.04	2 hours	x	✓	3 hour	✓
3.01	4 hours	✓	✓	5 hours	✓
3.02	4 hours	✓	✓	5 hours	✓
Percentage		33%	100%		100%

It is noted that the proposal would fully comply with the solar access requirements to the POS of the dwellings in accordance with the ADG and RDCP 2013 and as such, the proposed direct solar access to the POS is considered to be acceptable.

Under the ADG and RDCP 2013, the control requires a minimum of 70% of apartments to achieve solar access to the living areas. The proposal affords 66% of the apartments compliant solar access which if rounded up would comply with the minimum requirements. It is also noted that only 2 apartments receive no solar access to the living areas between 9am and 3pm. However, consideration has been given to the objectives of the controls. Objective 4A aims to optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space, with the objectives of clause 5.1 of RDCP 2013 seeking to ensure the design of development maximises solar access and to minimise the need for artificial lighting during daylight hours.

Given that all apartments have dual aspect, the dwellings shall receive good natural daylight into all areas of the apartment, with particular regards to the living areas which have substantial window openings on two (2) elevations. The apartments that do not receive compliant solar access are those which are located to the southern side of the building on levels 01 and 02, being four (4) of the Studio apartments. As the living spaces provide multiple windows, while compliant direct solar access shall not be provided, the proposed dwellings shall obtain generous natural daylight into the spaces and shall not rely artificial lighting. In order for 70% of the apartments to receive compliant solar access, a lesser density would be required, with the Studio apartments altered to either one or two bedroom apartments. Given the location of the subject site which is in close proximity to the University and the Hospital precinct, the provision of an increased number of Studio apartments is not considered unwarranted and caters to the main demographic of the area. The recommended amendments with regards to deletion of the solid walls along the balconies and provision of privacy screening shall also increase solar access to the units. In view of the minor numerical non-compliance, and the extent of natural light that the apartments shall achieve, the proposal is supported in this instance.

Visual Privacy

- **Objective 3F-1 of the ADG;**
- **Clause 5.3 (Visual Privacy) of Part C2, RDCP2013**

The design criteria (objective 3F-1) of the ADG takes precedence over the RDCP with regards to visual privacy and provides minimum separation distances from buildings to site boundaries to ensure visual privacy is maintained (the setback controls in the RDCP do however still apply and are also assessed).

For buildings up to 12m in height (4 storeys), a 3m setback to side boundaries is required for non-habitable rooms and 6m for habitable rooms. The northern side boundary setback to northern windows is a minimum of 2m. The eastern boundary setback to eastern windows and balconies is as follows:

- Ground Floor Level – 6.3m to windows;
- Level 01 – 7.6m to windows, 6.3m to balconies;
- Level 02 - 7.6m to windows, 6.3m to balconies;
- Level 03 – 8.76m to windows, 6.5m to balconies.

As such, the eastern windows and balconies shall numerically comply with the minimum spatial separation under objective 3F-1, with only the northern elevation non-compliant.

Objective 3F-1 states:

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

The relevant design guidance that supports the design criteria states:

- *New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include:*
 - *site layout and building orientation to minimise privacy impacts (see also section 3B Orientation)*
 - *on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4)*
- *No separation is required between blank walls.*

A variation to the design criteria is supported for the following reasons:

- The subject site has a frontage width to Botany Street of 13.385m, as such achieving 6m setbacks to habitable rooms and an adequate building footprint would not be possible in this instance.
- It is recommended that privacy measures be imposed on the northern side windows and to upper level balconies where appropriate to mitigate any overlooking impacts upon the neighbouring property.
- Living spaces have been orientated to the front and rear of the site to minimise visual privacy impacts.

With regards to the above, an assessment of the northern windows is provided below:

Apartment 3.01 (to the west)

Due to the increased setback at the upper level and the parapet of the roof below, the northern windows shall overlooking the roof area of the neighbouring property with no direct line of sights to windows.

Apartment 3.02 (to the east)

It is considered that due to the elevated nature of this level, sight lines into the rear COS of the neighbouring property would occur from the balcony and northern living room window. As such it is recommended that privacy measures are imposed to this window and a 1.6m high privacy screen provided along the northern edge of the balcony.

Apartments 1.01, 1.03, 2.01 and 2.03

It is considered that northern windows would have the capacity to overlook the neighbouring windows located adjacent to the proposed development. As such it is recommended that privacy measures are imposed on these windows.

Apartments G.01 and G.02

The ground floor level apartments are sited at a lower level and it is considered that boundary fencing shall be sufficient in minimising privacy impacts, as such no privacy measures are considered necessary on the northern windows at ground floor level.

Circulation Space

It is also recommended that the windows to the internal stair is provided with translucent glazing to mitigate overlooking from this area given the high level of pedestrian activity associated with this space.

Subject to the above, the proposal is not considered to result in any unreasonable privacy impacts upon the adjoining properties.

Clause 3.3 (Building Depth) of Part C2, RDCP 2013

Clause 3.3 requires building depths to be between 10m-14m for RFBs. The proposed development shall have a maximum building depth of 23m measured from window line to window line which does not comply with the control. Notwithstanding, the control states that *“any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings/units.”*

The subject site is highly constraint due to it's size, narrow width and being a corner allotment. Due to the small allotment size and number of dwellings proposed, the development ensures each apartment has at a minimum dual aspect, with the apartments on Ground Floor level and Level 04 provided with three aspects. As such, each apartment shall be cross-ventilated and be corner units. This ensures that good natural light and ventilation is achieved within each apartment, and a reasonable level of internal amenity is provided. As such, the proposal is considered to be consistent with the objectives of the control and the non-compliance is supported in this instance.

Clause 4.1 (Building Design – Building façade) of Part C2, RDCP 2013

Clause 4.1(iv) stipulates that building elevations should be divided into sections, bays or modules of not more than 10m. The northern and southern elevations provide wall lengths of up to 27.5m which does not comply with the control.

Concerns were raised with the Applicant regarding the articulation of the building facades and non-compliant wall lengths. Due to the constraints of the site, recessive building elements were not possible without impacting upon the internal amenity of the apartments or resulting in non-compliant side setbacks. As such, the applicant amended the proposal to provide further articulation of the facades through the use of different material application.

The site is constrained by its narrow width and size, and therefore it is accepted that further modulation of the northern and southern façades would impact upon the internal floor layout of the development. It is also considered that recessed/staggered wall planes in order to comply with the wall length would likely be tokenistic and would not have any material benefit in further breaking up the building façades. The north-eastern elevation is articulated by a difference in materiality and numerous window openings, which somewhat breaks up the building mass, however concerns are raised regarding the use of cream brick for the entire elevation and the extension of the external walls along the sides of the balconies which exacerbates the non-compliance with the wall length and adversely attributes to the overall bulk and scale of the development. As such, it is recommended that the solid walls along the sides of the eastern and western balconies on Level 01 and 02 be deleted and replaced with a 1.6m high privacy screen. Furthermore, the proposed privacy screens should be louvers rather than translucent glazing in order to provide appropriate articulation and not blend in with the cream façade. It is also recommended that a darker shade of brick or alternative material be utilised for one of the brick work and/or render to further articulate the building.

It is noted that the proposed materials and building design is supported by the Design Excellence Advisory Panel and Council's Heritage Planner. The proposed landscaping along the boundaries and within the streetscape shall screen the development and soften the visual impact of the building mass. Subject to the above recommendations, it is considered that the elevations would be suitably articulated by materials and window openings. In view of the above, the proposal is not considered to result in any unreasonable visual impacts as viewed from the public domain and adjoining properties, and the non-compliance would not warrant refusal of the application.

9. Conclusion

That the application for demolition of existing structures and construction of a part 4 and part 3 storey residential flat building comprising 12 units with basement parking, landscaping and associated works (affordable rental housing proposed) be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.

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- The proposal is consistent with the specific objectives of the R3 zone in that it presents a bulk and scale that is generally consistent with that envisaged by the applicable standards that will contribute to the character of the area and not result in any adverse impacts on the residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Design Excellence Advisory Panel (DEAP)

The application was originally referred to Randwick Design Excellence Advisory Panel on 16 August 2021. In response to the concerns raised by the Panel and Council, the Applicant provided amended plans and additional information with regards to the amenity of the rear eastern Ground Floor unit.

PANEL COMMENTS

INTRODUCTION

- *Demolition of a single detached house and replacement with a 4-storey residential flat building, that seeks additional floor space under the AHRSEPP to deliver 12 units (8 x studios, 2 x 1 bed, 2 x 2 bed)*
- *This is the third time the Panel has been a design for this site, and the first time that ESS have presented*

General Notes:

- *The Panel consider this design to be well executed and responsive to the site's unique characteristics and context.*
- *The relocation of the basement entrance to the Botany Street frontage is considered an improvement and delivers a number of benefits to the treatment of the ground plane and interface with neighboring properties (most notably those to the east). This approach places greater emphasis on the building's lobby access on Silver Street, which must negotiate a change in levels (and change in address).*
- *Another change from the previous scheme is bringing the entire building down so that it sits under the height plane. This move has placed considerable pressure on the ground floor units, which are now part/fully subterranean.*

Built Form

- *Accommodating a 4-storey building within a 12m height limit (assuming a minimum 3.1m floor-to-floor), in addition to the bonus floor space under the AHRSEPP, places pressure on the amenity of the dwellings and its context. The Panel recognizes the efforts made by the architect to bring the building under the height limit, however, this has resulted in the ground floor units sitting below street level, most notably in the east (unit G.02).*

Landscape

- *Within the 15% of deep soil the Panel would like to see additional planting of species that can contribute to the site's canopy cover, which can improve the shading of the streets and ground floor spaces (in addition to added privacy screening).*
- *Further information on the irrigation, maintenance and long-term responsibility of planters to be provided, as these are a major design feature and their success will contribute to the overall success of the project*
- *The total absence of communal space on a small site that's proposing 12 dwellings need to be justified and offset by some communal spaces at ground. Previous schemes were proposing roof-top spaces, which were considered appropriate on the site. However, in the absence of this feature the Panel would like to see alternate solutions (i.e. reducing G.01 to a 1 bed and assigning part of the ground floor to communal space)*

Amenity & Privacy

- *Further analysis (detailed sections or model views) along the Silver Street frontage should interrogate the privacy to the ground floor units, both of which feature sliding doors to the southern street frontage and narrow outdoor spaces.*

- *Solar shading to north elevation is suggested to reduce heat-load to the windows, and potentially integrated into additional privacy measures*
- *Privacy measures to be investigated along the northern elevation, and to protect the units from views into the bedrooms/units from Silver & Botany Streets*
- *Access from Silver Street to lobby needs further refinement to address:*
 - *Fencing extending along street to avoid falls into the lobby*
 - *Long term maintenance of platform lift, and a sense of equity for those*
 - *Signage and lighting to celebrate the site's new address from Silver Street*
- *Direct access from the street to ground floor units (Botany & Silver Streets), may include at-grade access to G.01*

Appearance & Materials

- *The Panel support the overall architectural approach and material selection, which is crafter and austere, but requires technical refinement to ensure this aesthetic is properly executed. The treatment of the landscape around the site and at the balconies is a major design feature and should be carefully detailed to ensure its long term contribution to the site and local context.*

Summary

Given the points above it is the opinion of the Panel that the proposal demonstrates that:

- 3. Further analysis of the site's internal amenity is secured and protected in the long term*
- 4. Greater emphasis should be given to the communal aspects of the building, including the lobby entrance sequence and provision of communal space*

Its the Panel's opinion that subject to the points within this report being addressed that the design has the capacity to be approved.

Assessment Officer comments

It is considered that the Applicant has demonstrated that good internal amenity to the dwellings shall be provided. The applicant has also incorporated the recommended changes by the Panel with regards to the street fencing, the Lobby area and the material refinement. The absence of communal open space is considered in detail within the assessment report and not considered warranted in this instance.

In view of the above, the proposal is considered to have satisfactorily addressed the key matters raised by the DEAP.

1.2. Heritage planner

The application was referred to Council's Heritage Planner who provide the following comments and/or recommendations:

The Site

The subject site is 5 Botany Street Randwick, and with a legal land parcel description of Lot 2 DP 320579. It is prominently located on the corner of Botany and Silver Streets at the northeast of the intersection. The immediate precinct comprises a mix of single-story dwellings and walk-up flat buildings. The single-storey dwellings are typically surviving but modified examples of late 19th century and then early 20th century Federation homes. The numerous walk-up flat buildings came to predominate this precinct in the 1960s and 1970s. There are also several examples of contemporary apartment buildings that present with relatively better amenity, and which are typical of an emerging quality genre for this local suburban area.

At present the subject site is occupied by a much-degraded, residential building of two-storey height. The base of this dwelling appears to have had an original construction in the early

twentieth century. However, it has had mixed additions of basic quality over time to the first floor, the front, the rear and both sides. Its footprint now occupies most of the land parcel, which is fenced in on two sides by poor-quality masonry.

Background

The subject site is not listed as a heritage item within the Randwick Local Environmental Plan (LEP) 2012, nor is it located within a Heritage Conservation Area (HCA). It is however located within the general vicinity of a heritage item in Silver Street, that being item I438 within Schedule 5 of the Randwick LEP 2012. That item is a group of three early twentieth-century single-storey residences. The group is located obliquely opposite the subject site at less than 30 metres. This heritage assessment therefore evaluates the proposed development in terms of its impact upon that group heritage item in the vicinity. In particular, it has assessed the views to and from the heritage item, in respect of the general form, scale, and finishes of the proposed development. And it has assessed the relationship of the proposed development to the immediate precinct character, which is the context of the listed heritage item.

Proposal

The proposal seeks to demolish the existing structures on the site. Then to construct a 3-4-storey residential flat building, comprising twelve 12 units of mixed size (studio, one bedroom and two bedroom), with 50% of the GFA dedicated to affordable housing. There will be vehicle access to basement level parking from Botany Street.

It is noted that an earlier DA proposal was considered by Council but was withdrawn on the advice of Council for aspects of planning, particularly the height compliance of the proposal. The current DA proposal is by a new architect (ess lifestyle) and is considered by the proponent to address the previously raised issues by lowering the overall height for compliance and re-designing an articulated step-back at the top level for improved perception.

Submission

For the purposes of this heritage assessment, it is noted that the proposal has been accompanied by a comprehensive set of documents. These include:

- A detailed set of architectural drawings by Ess Lifestyle Architects.
- An acceptable analysis of context, neighbourhood character, and design rationale in various documents.
- A detailed schedule of colours, finishes, and landscaping.
- A Statement of Environmental effects (SEE) by ABC Planning Pty Ltd.
- An analysis of affected properties

Controls

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

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

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

Comments

As noted above, the proposed development is not an individually listed heritage item, nor is it located within a HCA. It is however located in the vicinity of an individually listed group heritage item I438, in Schedule 5 of the Randwick LEP 2012.

This assessment determines that the proposed three-storey with recessed 4th storey will not have a detrimental impact on the heritage item within the vicinity.

- *The proposal is compatible with the character and general mix of style and height within the local area.*
- *It is representative of an emerging contemporary presentation that is consistent with the form of development contemplated for the site by State and Local controls.*
- *Given this established mix of the precinct, the height, bulk and scale of the proposed development will not have any perceived impact upon the listed heritage item within the vicinity.*
- *The proposal is accompanied by a detailed Colours, Materials and Finishes Schedule, which aims toward a high-quality urban design outcome. This includes brickwork, glass and framing of windows and doors, steel gates and enclosures with rendered masonry base, rendered finishes, and the use of crushed granite and natural stone.*
- *The proposed development is articulated with punctuated façade elements and a predominantly vertical orientation of windows. The incorporation of a variety of materials, finishes and indentions reflects the function of the building and represents a contemporary design that makes a positive contribution to streetscape character.*
- *It is also noted that the current site presentation is irredeemably degraded. The proposed development, in both overall contemporary appearance and residential intent – particularly in terms affordable housing – makes a positive cultural heritage contribution to precinct.*

Recommendation

The following conditions should be included in any consent:

- *The colours, materials and finishes of the external surfaces to the building are to be relatively neutral, in visual compatibility with the surrounding general mix of buildings in the precinct. This is as proposed in the current Materials Board schedule prepared by ess Lifestyle Architectural (drawing A 8201 - amended) and received by Council on 27 April 2022. Details of any changes to the proposed colours, materials and textures (i.e. - a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- *The proposed development involves considerable subsurface disturbance (excavation). Prior to the commencement of works, those involved are to be made aware of their obligations under the Heritage Act 1977 (NSW). In the unlikely event that historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potential extent and significance is undertaken, and the NSW Heritage Office notified under the requirements of the Heritage Act.*

1.3. Development Engineer

The application was referred to Council's Development Engineer who provide the following comments and/or recommendations:

An amended scheme has been received for demolition of existing structures and construction of a part 4 and part 3 storey residential flat building comprising 12 units with basement parking, landscaping and associated works (affordable rental housing proposed) at the above site.

This report is based on the following plans and documentation:

- Revised Architectural Plans by ESS, dwg's A0000-8201, stamped received by Council 18/08/22;
- Statement of Environmental Effects by ABC Planning, dated June 2021 and Supplementary SEE dated 25/03/22;
- Detail & Level Survey by ;
- Landscape Plans by Melissa Wilson Landscape Architects, dwg's LS01-10, issue B, dated 03/06/21;
- Arboricultural Impact Assessment Report by Blues Brothers Arboriculture, dated 29/04/21.

General Comments

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

Drainage Comments

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

The stormwater must be discharged (by gravity) either:

- i. Directly to the kerb and gutter in front of the subject site in Botany Street or Silver street ; or
- ii. Directly into Council's underground drainage system located in Botany street or Silver Street via a existing kerb inlet pit; or
- iii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

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

Parking Comments

As some units are intended to be dedicated as Affordable housing, parking requirements for the proposed development have been assessed as per the following applicable parking rates specified in sec 14(2) , Part 2, Division 1 (In Fill Housing) in the SEPP Affordable Housing.

The proposed development cannot be refused on parking grounds provided the following minimum parking rates are achieved.

- 0.5 spaces per 1 bedroom dwelling
- 1.0 spaces per 2 bedroom unit
- 1.5 spaces per 3 bedroom unit
- No visitor parking specified

The amended 12 unit development comprises of 2 x 2 bedroom units, 8 X studio units and 2 x 1 bedroom units resulting in the following minimum parking standard

$$\begin{aligned}\text{Parking Required} &= 2B(2 \times 1.0) + \text{Studio}(8 \times 0.5) + 1B(2 \times 0.5) \\ &= 2 + 4 + 1 \\ &= 7 \text{ spaces}\end{aligned}$$

Parking provided = 6 spaces

Parking shortfall = 1 space (14%)

Although this is an improvement on the original design, which only provided 5 spaces (shortfall of 2 spaces) the 'do not refuse' standard of 7 spaces still has not been met, hence Council does have the right to refuse the development on parking grounds.

Notwithstanding, in assessing the 1 space shortfall the following is noted by Development Engineering;

- a) The proposed amended development now provides 1 motorbike space, which isn't generally required under the AHSEPP or the DCP in this instance, and partially compensates for the vehicle shortfall.*
- b) The proposed amended development now provides for 7 bicycle spaces which is not required under the AHSEPP but is fully compliant with Part B7 of DCP.*
- c) The following characteristics of the site location and development are noted;;*
 - Wansey Road Light Rail station is located within 400m to the northwest.*
 - Major bus routes are also available on Belmore Road approx 200m away to the east that include destinations such as the City, Bondi Junction, Pagewood, Alexandria, Coogee and Maroubra.*
 - Randwick Town Centre is less than 200m away to the east including amenities such as shopping centre, library, gyms and medical facilities*
 - UNSW is approx. 400m away to the south*
 - The site is located in close proximity to a number of car share pods operated by GoGet Carshare with the closest being approx. 120m away to the east within the Silver Street public carpark.*
 - There will be a loss of 1 on-street carspace on Botany street as a result of the new driveway but a likely gain of 2 on-street spaces in Silver Street by removal of the existing driveway and providing rear to kerb parking as is currently being provided in this section of Silver street, thereby providing a net benefit of 1 space in the street.*

In consideration of the above factors it appears there are a number of alternative transport options available and the site is well situated to reduce dependence on a motor vehicle being close to public transport and local amenities. The 1 space shortfall in parking is therefore not considered critical and has been adequately compensated for. It would not warrant refusal of the application on parking grounds in this instance.

Carpark Layout

The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) appear to be in accordance with the requirements of Australian Standard 2890.1:2004. This has also been conditioned.

Undergrounding of site feed power lines

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

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

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

Waste Management Comments

Waste management comments

The applicant is required to submit to Council and have approved by Council's Director Planning, a Waste Management Plan (WMP) detailing waste and recycling storage and disposal for the development site.

The plan shall detail the type and quantity of waste to be generated by the development; demolition waste; construction waste; materials to be re-used or recycled; facilities/procedures for the storage, collection recycling & disposal of waste and show how the on-going management of waste for the units will operate.

Comments on the number of Waste Bins

Appendix 3 in Part B6 of Council's DCP specifies a waste bin requirement rate for residential flat buildings houses of 1 x 240L bin per 2 rooms for normal garbage and 1 x 240L bin per 2 rooms for recycling.

i.e. Garbage/recycling Bins Required = $12/2 = 6$ of each

There are no specific requirements for green waste in Part B6 of the DCP however since March 2021 Council has introduced a Food Organic and Garden organic Collection service. As some landscaped areas are proposed it is considered a minimum of 1 x 240L bins also be provide for FOGO

$$\begin{aligned} \text{Total Number of BINS required} &= 6(\text{normal}) + 6(\text{recycling}) + 1(\text{FOGO}) \\ &= 13 \times 240\text{L BINS} \end{aligned}$$

Total Number of BINS proposed = 12 x 240L bins

The shortfall is minor (1 bin) and can be conditioned.

Tree Management & Landscape Comments

The only vegetation within this site is in the front setback, right in the northwest corner, fronting onto Botany Street, where there is an insignificant Frangipani (T1), which given its direct conflict with all aspects and levels of the works, can be removed as shown and recommended.

Along the length of the Silver Street frontage, between the southwest corner of the existing building and the existing driveway is a row of Tristaniopsis laurina (Watergums), with the largest being T2, which is the most western street tree, closest to Botany Street, at about 5-6m tall, with T3, being a group of three trees of around 2m in height, which whilst all being protected by the DCP, have been damaged due to being struck by parked vehicles reversing into them.

Regardless, their retention is required, and will be possible given an absence of any external works in this area, as this will assist with the future integration of this development into the streetscape, with relevant protection measures and a bond imposed.

There are also two separate public garden beds with planting that have been incorporated into the on-street parking areas, being one each adjacent both the southeast and southwest site corners. which should both remain unaffected.

The Landscape Plans show a high level of detail, that will result in a quality outcome, dramatically increasing the amount of plant material at this site compared to the current situation, which will benefit future occupants, and as the SEE details that this proposal will achieve compliance with the numerical controls in the ADG for landscaped area and deep soil for a development of this type, conditions require that this scheme be fully implemented as part of any approval.

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Appendix 2: Compliance with the ARH SEPP for the Infill Affordable Housing Part 2 Division 1

PART 2 – NEW AFFORDABLE RENTAL HOUSING			
Division 1 – In-fill Affordable Housing			
Clause	Control	Proposal	Compliance
Clause 10 - Development to which Division applies	<p>(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:</p> <p>(a) the development concerned is permitted with consent under another environmental planning instrument, and</p> <p>(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the <i>Heritage Act 1977</i>.</p> <p>(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.</p>	<p>The proposed RFB is permitted with consent in the R3 Medium Density Residential zone.</p> <p>The site does not contain a heritage item.</p> <p>The site is within an accessible location as a bus stops is located within 400m of the site which is serviced regularly by a bus route.</p>	Complies.
Clause 13 - Floor space ratios	<p>(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</p> <p>(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable</p>	<p>The total proposed GFA = 643.79m². Total affordable housing GFA = 326.68m² which is 50.7% of the total GFA.</p> <p>The existing max permissible FSR pursuant to the RLEP is 0.9:1. As the percentage of affordable housing is >50% of the total GFA, a bonus FSR of 0.5:1 applies, being 1.4:1 (or GFA of 676.06m²).</p> <p>The proposed FSR = 1.33:1 (643.79m²) which complies with the maximum permitted.</p>	Complies.

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	<p>housing is 50 per cent or higher.</p> <p>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,</p> <p>where— AH is the percentage of the gross floor area of the development that is used for affordable housing.</p> <p>$Y = AH \div 100$</p>		
Clause 14 - Standards that cannot be used to refuse consent	<p>(1) Site and solar access Requirements</p> <p>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) (Repealed)</p> <p>(b) site area if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	The site area is 482.9m ²	Complies.
	<p>(c) landscaped area if:</p> <p>(i) in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or</p> <p>(ii) in any other case—at least 30 per cent of the site area is to be landscaped,</p>	<p>The Standard Instrument defines landscaped area as <i>part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</i></p> <p>The development application is not made by a social housing provider.</p> <p>The proposed landscaped area is approximately 11.47% (55.42m²).</p> <p>While the landscaped area provided is 11.47%, this excludes the open space located above the basement level. The landscaped open space area including those areas above the basement would equate to 46.17% of the site.</p>	<p>Does not Comply.</p> <p>See Key issues for further discussion.</p>
	<p>(d) deep soil zones if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not</p>	The proposed development provides deep soil zones equating to 8% (38.97m ²), however 4.99% of these areas are a minimum of 3m wide.	<p>Does not Comply.</p> <p>See Key issues for further discussion.</p>

	<p>built on, paved or otherwise sealed:</p> <p>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the deep soil zone), and</p> <p>(ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p>		
	<p>(e) solar access if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter.</p>	<p>66% of units will receive at least 2 hours of solar access to living rooms and balconies between 9am and 3pm on 21 June.</p>	<p>Does not Comply. See Key Issues for further discussion.</p>
	<p>(2) General A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) parking if:</p> <p>(i) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or</p> <p>(ii) in any other case—at least 0.5 parking spaces are provided</p>	<p>The proposed development comprises 8 x Studio apartments, 2 x 1 Bedroom apartment, and 2 x 2 Bedroom apartments, as such a minimum of seven (7) car parking spaces is required.</p> <p>The proposal provides for six (6) car parking spaces within the basement.</p>	<p>Does no Comply. Refer to Development Engineers comments in Appendix 1.</p>

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	for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,		
	<p>(b) dwelling size if each dwelling has a gross floor area of at least:</p> <p>(i) 35 square metres in the case of a bedsitter or studio, or</p> <p>(ii) 50 square metres in the case of a dwelling having 1 bedroom, or</p> <p>(iii) 70 square metres in the case of a dwelling having 2 bedrooms, or</p> <p>(iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.</p> <p>(iii) An additional 5m² is required for additional bathrooms.</p>	<p>The dwellings have the following gross floor area:</p> <ul style="list-style-type: none"> Unit G.01 is a 2-bedroom apartment = 70m² (Affordable) Unit G.02 is a 2-bedroom and 2-bathroom apartment = 88m² (Affordable) Unit 1.01 is a Studio apartment = 40.47m² (Affordable) Unit 1.02 is a Studio apartment = 40.47m² (Affordable) Unit 1.03 is a Studio apartment = 40.47m² (Affordable) Unit 1.04 is a Studio apartment = 40.47m² (Affordable) Unit 2.01 is a Studio apartment = 40.47m² Unit 2.02 is a Studio apartment = 40.47m² Unit 2.03 is a Studio apartment = 40.47m² Unit 2.04 is a Studio apartment = 40.47m² Unit 3.01 is a 1-bedroom apartment = 50.2m² Unit 3.02 is a 1-bedroom apartment = 58.84m² 	Complies.
	(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).		Complies.
	Nothing in this Policy affects the application of <i>State Environmental Planning Policy No 65—Design Quality of Residential Flat Development</i> to any development to which this		Noted.

	Division applies.		
Clause 16 - Continued application of SEPP 65	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	Noted. SEPP 65 applies to the development and an assessment is carried out against SEPP 65 in table further below.	Noted.
Clause 16A - Character of local area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	Refer to section 6.1 of this report which addresses this section of the SEPP.	Complies.
Clause 17 - Must be used for affordable housing for 10 years	(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that: <ul style="list-style-type: none"> (a) for 10 years from the date of the issue of the occupation certificate: <ul style="list-style-type: none"> i. the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and ii. all accommodation that is used for affordable housing will be managed by a registered community housing provider, and (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i>, that will ensure that the requirements of paragraph (a) are met. Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority. 	Conditions will ensure compliance with this part.	Complies subject to conditions.
Clause 18 - Subdivision	Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.	No subdivision is proposed under the subject application.	Noted.

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Appendix 3: Compliance with ADG Design Criteria

Apartment Design Guide – Compliance Table								
Design Criteria	Proposal	Compliance						
<p><u>Communal and Public Open Space</u> Communal open space has a minimum area equal to 25% of the site (140.7m²).</p> <p>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 9am and 3pm on 21 June (mid-winter).</p>	No communal open space is provided for the development.	Does not comply. <i>Refer to Key Issues for further discussion.</i>						
<p><u>Deep Soil Zones</u> Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site Area</th><th>Minimum Dimension</th><th>Deep Soil Zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 6500m²</td><td>-</td><td>7% (33.8m²)</td></tr> </tbody> </table>	Site Area	Minimum Dimension	Deep Soil Zone (% of site area)	Less than 6500m ²	-	7% (33.8m ²)	38.97m ² (8%) deep soil provided.	Complies.
Site Area	Minimum Dimension	Deep Soil Zone (% of site area)						
Less than 6500m ²	-	7% (33.8m ²)						
<p><u>Visual Privacy</u> 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> </tbody> </table>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Setbacks of windows to side boundaries are a minimum of 2m to the north, and 6.3m to the east.	Does not comply. <i>Refer to Key Issues for further discussion.</i>
Building Height	Habitable Rooms and Balconies	Non-habitable rooms						
Up to 12m (4 storeys)	6m	3m						
<p><u>Solar Access and Daylight</u> 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 in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>The living rooms and private open space of eight (8) out of twelve (12) apartments shall receive compliant solar access which equates to 67% of the apartments.</p> <p>Two (2) apartments equating to 16% shall receive no direct solar access between 9am and 3pm in midwinter.</p> <p>The main POS of ten (10) of the apartments shall receive solar access in accordance with the minimum requirements, being 83% of the units. However, all areas of POS shall receive some solar access in midwinter.</p>	Does not comply. <i>Refer to Key Issues for further discussion.</i>						
<p><u>Natural Ventilation</u> 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</p>	All apartments (100%) are naturally cross ventilated.	Complies.						

Apartment Design Guide – Compliance Table		
Design Criteria	Proposal	Compliance
<p>ventilation and cannot be fully enclosed</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> <p>Cross-over apartment cross ventilating apartment with two opposite aspects and with a change in level between one side of the building and the other</p> <p>Cross-through apartment cross ventilating apartment on one level with two opposite aspects</p>		
<p><u>Ceiling Height</u> 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 rooms – 2.4m 	<p>All units are provided with minimum 2.7m ceiling heights, noting floor to floor heights of 3.1m and 3.2m.</p>	<p>Complies.</p>
<p><u>Apartment Layout</u> 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>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<ul style="list-style-type: none"> Unit G.01 is a 2-bedroom apartment with 1 bathroom, and proposed a internal area of 70m² Unit G.02 is a 2-bedroom and 2-bathroom apartment, and proposed a internal area of 88m² Unit 1.01 is a Studio apartment with 1 bathroom and proposed a internal area of 40.47m² Unit 1.02 is a Studio apartment with 1 bathroom and proposed a internal area of 40.47m² Unit 1.03 is a Studio apartment with 1 bathroom and proposed a internal area of 40.47m² Unit 1.04 is a Studio apartment with 1 bathroom and proposed a internal area of 40.47m² Unit 2.01 is a Studio apartment with 1 bathroom and proposed a internal area of 40.47m² Unit 2.02 is a Studio apartment with 1 bathroom and proposed a internal area of 40.47m² Unit 2.03 is a Studio apartment with 1 bathroom and proposed a internal area of 40.47m² Unit 2.04 is a Studio apartment with 1 bathroom and proposed a internal area of 40.47m² Unit 3.01 is a 1-bedroom apartment with 1 bathroom and proposed a internal area of 50.2m² 	<p>Complies.</p>

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Apartment Design Guide – Compliance Table		
Design Criteria	Proposal	Compliance
	<ul style="list-style-type: none"> Unit 3.02 is a 1 bedroom apartment with 1 bathroom and proposed a internal area of 58.84m² <p>All habitable rooms have windows that comply with the requirements of the ADG.</p> <p>All bedrooms and living rooms comply with minimum dimensions.</p>	
<u>Environmental Performance</u> Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Depth of habitable rooms (other than open plan rooms) do not exceed 2.5 x the ceiling height. Open plan rooms combining living, dining and kitchen have a maximum living room depth less than 8m from a window. Increased ceiling heights have been provided for the Studio apartments to improve amenity.	Complies
<u>Open Space</u> All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> Studio - 4m² 1 bedroom - 8m² (minimum depth of 2m) 2 bedroom – 10m² (minimum depth of 2m) 3+ bedroom apartments – 12m² (minimum depth of 2.4m) <p>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 15m² and a minimum depth of 3m.</p>	All upper level units are provided with balconies in accordance with the minimum requirements. The ground level apartments provide courtyard areas of 18m ² and 26m ² .	Complies
<u>Common Circulation Space</u> The maximum number of apartments off a circulation core on a single level is eight. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	A maximum of four (4) units are proposed on any single level.	Complies
<u>Storage</u> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> Studio - 4m³ 1 Bedroom - 6m³ 2 Bedroom - 8m³ 3 Bedroom - 10m³ <p>At least 50% of the required storage is to be located within the apartment.</p>	Compliant storage is provided for each unit within the units.	Complies

Appendix 4: DCP Compliance Table

It is noted that Clause 6 of SEPP 65 refers to Parts 3 and 4 of the ADG and requires:

(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.*

Therefore, where the RDCP provides controls in relation to (1), refer to Appendix 4 for the ADG design criteria assessment.

The relevant provisions of the DCP are addressed below.

4.1 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance
C2	Medium Density Residential		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (241.45m ²) is to be landscaped open space.	46.17% (222.97m ²). The variation is supported noting the development is consistent with the objectives of the control, and it is considered that sufficient landscaped open space is provided that shall enhance the landscape character of the site.	Does not comply. <i>See Key Issues for further discussion.</i>
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (120.725m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting. (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	8% (38.97m ²). It is noted that the ADG requires 7% deep soil. The variation is supported due to the constraints of the site and the provision of car parking which requires a significant basement level. The site provides sufficient	Does not comply, however variation is supported. <i>See Key Issues for further discussion.</i>

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DCP Clause	Control	Proposal	Compliance
	<p>as concrete, decks, terraces, outbuildings or other structures.</p> <p>(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.</p> <p>(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.</p> <p>(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.</p>	<p>areas for landscaping and substantial vegetation, particularly within the side setbacks and at the front and rear. Stormwater will be appropriately managed (refer to Development Engineering comments at Appendix 1) with permeable surfaces provided where possible.</p>	
2.3	Private and communal open space		
2.3.1	Private open space		
	<p>Private open space is to be:</p> <p>(i) Directly accessible from the living area of the dwelling.</p> <p>(ii) Open to a northerly aspect where possible so as to maximise solar access.</p> <p>(iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.</p> <p>For residential flat buildings:</p> <p>(vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from with the dwelling.</p> <p>(vii) Private open space for apartments has a minimum area of 8m² and a minimum dimension of 2m.</p>	<p>Each apartment is provided with an area of POS in excess of the minimum requirements under the ADG. While the Studio apartments do not numerically comply with the 8m² and 2m depth under RDCP 2013, given the low occupancy of these units, the proposed balconies are considered appropriate.</p>	Acceptable.
2.3.2	Communal open space		
	<p>Communal open space for residential flat building is to be:</p> <p>(a) Of a sufficient contiguous area, and not divided up for allocation to individual units.</p> <p>(b) Designed for passive surveillance.</p> <p>(c) Well oriented with a preferred northerly aspect to maximise solar access.</p> <p>(d) adequately landscaped for privacy screening and visual amenity.</p> <p>(e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.</p>	<p>No communal open space is provided on the site.</p>	<p>Does not comply. See Key Issues for further discussion.</p>
3	Building Envelope		
3.1	Floor space ratio		
	1.4:1 required by the LEP and ARH SEPP.	1.33:1 proposed.	Complies.
3.2	Building height		

DCP Clause	Control	Proposal	Compliance
	12m required by the LEP.	11.115m proposed.	Complies.
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 / apartment depths comply with the objectives of the ADG and clause 3.3.	Does not comply. <i>See Key Issues for further discussion.</i>
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.	The subject site sits within a block of three (3) properties, two (2) of which are corner allotments, including the subject site. The proposed development maintains the existing front setback to Botany Street to maintain consistency in the streetscape. The 2m setback to Silver Street is considered acceptable given the narrow width and constraints of the site, and that the area is undergoing transition. It is also noted that the proposed setback is greater than the existing 1.5m setback and the proposed 2m setback shall still allow substantial landscaping along the front of the site within the front setback area.	Acceptable.
3.4.2	Side setback		
	Residential flat building (i) Comply with the minimum side setback requirements stated below: - Lots with a site frontage width 12m-14m: 2.0m (ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to: - Create articulations to the building facades.	The site frontage width is approximately 13.385m. The proposed side setbacks shall be a minimum of 2.119m.	Complies.

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DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - 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.	A standard condition will ensure compliance with the BCA is achieved.	Complies
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% (5.38m) of allotment depth or 5m, whichever is the greater.	A minimum of 5.52m to upper level balconies, and a minimum of 6.3m to the external walls.	Complies
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. 	<p>The front façade fronting Botany Street is well articulated and will present well to the street and surrounding properties with balconies, recessed and projecting architectural elements.</p> <p>However, the northern and southern elevations shall provide wall lengths greater than 10m.</p>	Does not comply. <i>See Key Issues for further discussion.</i>
4.2	Roof design		
	(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.	While the prevailing roof form within the streetscape is pitched roofs, the area is considered to be under transition with	Acceptable.

DCP Clause	Control	Proposal	Compliance
	<p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - 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</p>	<p>examples of newer flat roof developments within the vicinity of the site. As such the proposed roof form shall not be inconsistent with the desired future character of the area.</p>	

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DCP Clause	Control	Proposal	Compliance
	be designed by a qualified landscape architect or designer with details shown on a landscape plan.		
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.	<p>The proposal results in an external wall height of up to 11.26m, resulting in a breach of up to 760mm to the external wall height control.</p> <p>In order to minimise the appearance and bulk of the upper level and the exceedance of the external wall height, setbacks were provided for the upper level. Of particular relevance is the substantial setback of 4m at the Botany Street frontage from the lower building alignment. The Applicant undertook a comparison between a habitable roof space and the proposed flat roof design which results in a significantly lesser bulk and scale. Landscaping has also been incorporated into the upper level parapet surround to soften the visual impact of the development. In view of the above, the proposal is considered to be consistent with the objectives of the control and shall not result in any unreasonable impacts with regards to the amenity of the neighbouring properties and the streetscape.</p>	Acceptable.
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Minimum ceiling heights of 2.7m are provided.	Complies
4.5	Pedestrian Entry		

DCP Clause	Control	Proposal	Compliance
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Pedestrian pathways and vehicular access are clearly distinguished.	Complies
	(ii) Present new development to the street in the following manner: <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> (i) Mailboxes are provided in accordance with the delivery requirements of Australia Post. (ii) A mailbox must clearly mark the street number of the dwelling that it serves. (iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.	<p>The pedestrian entry is located off Silver Street and shall be easily identifiable. The proposed ramps and platform lift has been incorporated into the landscape design.</p> <p>No details have been provided with regards to mailboxes so a condition of consent shall be imposed in this regard.</p> <p>The principal building entrance from Silver Street is partially covered.</p>	Complies, subject to condition.
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. 	Building circulation requirements are provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 4).	Complies with the ADG.

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DCP Clause	Control	Proposal	Compliance
	- 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. 	1 access core is provided within the centre of the building. A maximum of 4 dwellings are provided on each floor.	Complies
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	Apartments are not provided off a double-loaded corridor.	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. (ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	Apartment layouts are provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 4). Notwithstanding, all apartments have dual aspects and are naturally cross ventilated and provided with adequate natural light.	Complies with the ADG.
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development. (iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	All apartments are provided with compliant POS in accordance with the ADG. All dwellings provided open-plan living/kitchen/dining areas, with kitchens located outwith circulation space.	Complies.
4.8	Balconies		

DCP Clause	Control	Proposal	Compliance
	<p>(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.</p> <p>(i) 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.</p>	All apartments are provided with adequate POS, noting the provisions of studio apartments.	Acceptable.
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>	The proposal includes a variety of materials and colours that shall be not be incompatible with the streetscape and surrounding area. However, concerns are raised regarding the articulation of the northern and southern facades which would benefit from an additional contrasting material. A condition of consent shall be imposed accordingly.	Complies, subject to condition.
4.12	Earthworks Excavation and backfilling		
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to</p>	Other than the basement, and due to the slope of the site from east to west, the excavation reaches a	Acceptable.

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DCP Clause	Control	Proposal	Compliance
	<p>reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	maximum depth of 1.54m. The minor non-compliance is considered acceptable due to the topography of the site and the need to facilitate basement parking.	
	<p>Retaining walls</p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	Retaining walls are proposed for the basement garage. The retaining walls shall provide setbacks less than 900mm to the northern boundary for the basement. Appropriate conditions of consent shall be imposed.	Acceptable.
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	<p>(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.</p> <p>(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.</p>	67% of the apartments shall receive direct solar access in midwinter.	Does not comply. <i>See Key Issues for further discussion.</i>
	(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.	No single aspect apartments are proposed.	Complies
	(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		
	(i) Living areas of neighbouring dwellings must receive a minimum of	Based on the submitted shadow	Complies.

DCP Clause	Control	Proposal	Compliance
	<p>3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.</p> <p>(ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June.</p> <p>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</p>	<p>diagrams, additional overshadowing will occur to neighbouring properties to the south-east, however compliance with the standard is still achieved.</p>	
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 habitable rooms are provided with natural daylight via windows.	Complies
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Appropriate sun shading devices have been provided where required.	Complies
	(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 habitable rooms are provided with window openings to outdoor areas.	Complies
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	All habitable rooms are capable of natural ventilation.	Complies
	(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 apartments (100%) are cross-ventilated.	Complies
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Due to the open-plan nature of the dwellings, all kitchens (100%) have access to natural ventilation.	Complies
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	N/A	N/A
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.	Privacy measures shall be imposed to ensure no unreasonable impacts	Acceptable.

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DCP Clause	Control	Proposal	Compliance
	(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 	upon adjoining properties with regards to visual privacy.	
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 	Acoustic privacy will be achieved within the apartments due to separation of quiet areas from noisy areas.	Complies
5.5	View sharing		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms.	It is not considered that any unreasonable view loss impacts shall occur as a result of the proposed development.	Complies

DCP Clause	Control	Proposal	Compliance
	<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>		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	Entry points to the building can be appropriately secured and will have clear lines of site.	Complies
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Direct, secure access is provided to the main pedestrian paths within the site.	Acceptable.
	(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.	All apartments are provided with openable habitable room windows that are capable of being secured.	Complies
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No obstruction to lines of sight is proposed.	Complies
	(vi) Resident car parking areas must be equipped with security grilles or doors.	A security door to the basement access is proposed.	Complies
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay	Casual surveillance will be achieved to the street and communal areas from living	Complies.

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DCP Clause	Control	Proposal	Compliance
	windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	rooms and private open spaces.	
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	Access to the basement car park is proposed from Botany Street, however given the narrow width and constraints of the site this was considered the most appropriate location to facilitate adequate car parking.	Acceptable.
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	The driveway length is minimised and adequate deep soil landscaping / sufficient permeable surfaces are provided.	Complies.
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	The driveway is setback a minimum of 2.119m from the side boundary.	Complies.
	(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.	Parking is proposed within the basement.	Complies.
6.2	Configuration		

DCP Clause	Control	Proposal	Compliance
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	Vehicles will be able to enter and exit the site in a forward direction.	Complies.
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	The maximum driveway width is 3.5m.	Complies.
	(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.	The proposed basement complies with the control.	Complies.
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	No specific details have been provided with regards to side and rear fencing. A condition shall be imposed for details to be submitted to and approved by Council.	Complies, subject to condition.

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DCP Clause	Control	Proposal	Compliance
	(ii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.		
7.2	Front Fencing		
	<p>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.</p> <p>(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.</p> <p>(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios:</p> <ul style="list-style-type: none"> - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. <p>Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.</p> <p>(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.</p> <p>(vi) The preferred materials for front fences are natural stone, face bricks and timber.</p> <p>(vii) Gates must not open over public land.</p> <p>(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.</p>	Fencing up to 1.8m in height is proposed along the Botany Street and Silver Street frontages, with the upper 2/3 of the fence open in style.	Complies.
7.3	Side and Rear Fencing		
	<p>(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding</p>	No details have been provided regarding side or rear fencing. A condition of consent shall be imposed.	Complies, subject to condition.

DCP Clause	Control	Proposal	Compliance
	<p>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>(a) 1-bedroom apartments – 6m³</p> <p>(b) 2-bedroom apartments – 8m³</p> <p>(c) 3 plus bedroom apartments – 10m³</p>	Storage is provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 4).	Complies with ADG.
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Sufficient area is available as part of the POS for clothes drying facilities.	Complies.
	(ii) Provide internal laundry for each dwelling unit.	Each unit is provided with an internal laundry.	Complies.
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	Sufficient area is available as part of the POS.	Complies.
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> Avoid installing within window frames. If installed in balconies, screen by suitable balustrades. 	A condition is recommended to ensure compliance with this part.	Complies, subject to condition.

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none">Air conditioning units must not be installed within window frames.		

Responsible officer: Angela Manahan, Executive Planner

File Reference: DA/398/2021

D55/22

Development Consent Conditions



D55/22

Folder /DA No:	DA/398/2021
Property:	5 Botany Street, Randwick NSW
Proposal:	Demolition of existing structures and construction of a part 4 and part 3 storey residential flat building comprising 12 units with basement parking, landscaping and associated works (affordable rental housing proposed).
Recommendation:	Approval

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated
A1010 (Site Plan), Revision DA02	ESS Architects	03/15/2021
A1020 (Demolition Plan), Revision DA01	ESS Architects	02/06/2021
A2201 (Basement Plan), Revision DA02	ESS Architects	03/15/2021
A2202 (Ground Floor Plan), Revision DA03	ESS Architects	13/07/2022
A2203 (Level 01 Plan), Revision DA02	ESS Architects	03/15/2021
A2204 (Level 02 Plan), Revision DA02	ESS Architects	03/15/2021
A2205 (Level 03 Plan), Revision DA02	ESS Architects	03/15/2021
A2206 (Roof Plan), Revision DA02	ESS Architects	03/15/2021
A3101 (South Elevation), Revision DA02	ESS Architects	03/15/2021
A3103 (West Elevation), Revision DA01	ESS Architects	02/06/2021
A3105 (North Elevation), Revision DA02	ESS Architects	03/15/2021
A3107 (East Elevation), Revision DA01	ESS Architects	02/06/2021
A3201 (Section A), Revision DA02	ESS Architects	03/15/2021
A3202 (Section B), Revision DA01	ESS Architects	02/06/2021
A3203 (Section C), Revision DA01	ESS Architects	02/06/2021
A3204 (Section A), Revision DA01	ESS Architects	13/07/2022
A8201 (Colours and Materials Schedule), Revision DA02	ESS Architects	03/15/2021

BASIX Certificate No.	Dated
1203494M	06 June 2021

Amendment of Plans & Documentation

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

- a) The extension of the external wall along the sides of the eastern and western balconies at Level 01 and Level 02 are to be deleted and replaced with a privacy screen as follows:
- A privacy screen having a height of 1.6m (as measured above the finished floor level) shall be provided to the following:
 1. The northern edge of the western Level 01 and 02 decks to Units 1.01 and 2.01;
 2. The northern edge of the eastern Level 01 and 02 decks to Units 1.03 and 1.02;
 3. The southern edge of the western Level 01 and 02 decks to Units 1.02 and 2.02;
 4. The southern edge of the western Level 01 and 02 decks to Units 1.04 and 2.04.

The above privacy screens must be constructed with either:

- Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
- b) A privacy screen having a height of 1.6m (measured above the finished floor level) shall be provided to the following:

- Along the northern edge of the eastern Level 03 deck (the rear deck of Unit 3.02).

Privacy screens must be constructed with either:

- Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
 - Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
- c) The following windows must have a minimum sill height of 1.6m above floor level, or alternatively, the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height, or be fitted with fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings:

Level 01

- Northern elevation
 - Window W:L1:1.03 to the Living area of Unit 1.01;
 - Window W:L1:1.02 to the Bedroom area of Unit 1.01;
 - Window W:L1:1.01 to the Bathroom of Unit 1.01;
 - Window W:L1:3.01 to the Bathroom of Unit 1.03;
 - Window W:L1:3.02 to the Bedroom area of Unit 1.03;
 - Window W:L1:3.03 to the Living area of Unit 1.03;
 - The window to the internal Stair.

Level 02

- Northern elevation
 - Window W:L2:1.03 to the Living area of Unit 2.01;
 - Window W:L2:1.02 to the Bedroom area of Unit 2.01;
 - Window W:L2:1.01 to the Bathroom of Unit 2.01;
 - Window W:L2:3.01 to the Bathroom of Unit 2.03;
 - Window W:L2:3.02 to the Bedroom area of Unit 2.03;
 - Window W:L2:3.03 to the Living area of Unit 2.03;
 - The window to the internal Stair.

Level 03

- Northern elevation

- Window W:L:2.02 to the Living area;
- The window to the internal Stair.

- d) The existing stone fence pillar located on the north-western corner of the site which is located on the common boundary with No. 3 Botany Street is to be retained. The fence pillar is to be straightened if possible during the construction works.

Intercom / Locking Systems

3. Control visitor entry to all units and internal common areas by intercom and remote locking systems.

Lighting

4. Adequate lighting for personal safety shall be provided in common and access areas including building entries and communal open space areas.

Rooftop Plant

5. No additional structures are to be located on the roof of the development, including any plant or equipment which is not permitted on the roof.

Affordable Rental Housing Component

6. Units G.01, G.02, 1.01, 1.02, 1.03 and 1.04 shall be provided as affordable rental housing in accordance with the SEPP (ARH) 2009.

- a) The dwellings to be used for the purposes of 'affordable rental housing', as per the provisions of the SEPP (ARH) 2009 shall be used as such for at least 10 years from the date of the issue of the Occupation Certificate.
- b) The affordable rental housing component (secured for a minimum of 10 years) must be managed by a registered Community Housing Provider (CHP).
- c) The CHP must ensure compliance with the occupant restriction and others provisions of the regulatory code established through regulations under the Housing Act 2001.
- d) A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 that will ensure that the requirements a. and b. are met and that the terms of restriction may not be varied without Council's consent.
- e) Prior to an Occupation Certificate being granted, evidence must be provided to Council demonstrating that the section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.

7. The Applicant/Owner is to ensure adequate arrangements being made to assist the existing residents (if any) of the building to find alternative comparable accommodation.

Heritage Conservation

8. The proposed development involves considerable subsurface disturbance (excavation). Prior to the commencement of works, those involved are to be made aware of their obligations under the Heritage Act 1977 (NSW). In the unlikely event that historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potential extent and significance is undertaken, and the NSW Heritage Office notified under the requirements of the Heritage Act.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

External Colours, Materials & Finishes

10. The colours, materials and surface finishes to the development must be consistent with the relevant plans and documentation provided with the development application and subject to the below amendments. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

One of the cream brick work (either BK:01 or BK:02) is to be amended to a darker shade to provide more differentiation between the materials of the building.

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

Fencing

11. No side or rear boundary fencing is proposed under this development consent. Details of front fencing are to be submitted to and approved by Council's Manager – Development Assessment, prior to a construction certificate being issued for the development. The design of the fencing shall be in accordance with the provisions of Randwick Development Control Plan 2013. The documentation to be submitted to Council is to include elevations, plans, and details of materials and finishes.

Section 7.12 Development Contributions

12. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$3,635,000.00 the following applicable monetary levy must be paid to Council: \$36,350.00.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Compliance Fee

13. A development compliance and enforcement fee of \$7,633.50 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

Long Service Levy Payments

14. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

Security Deposits

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

- \$8,000.00 - Damage / Civil Works Security Deposit

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

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

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

Telecommunications infrastructure

16. Prior to the issue of a Construction Certificate in connection with this development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Principal Certifier that arrangements have been made for:

- (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and;
- (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

NOTE: Real estate development project has the meanings given in section 372Q of the Telecommunications Act.

Street Tree Protection

17. In order to ensure retention of the row of four *Tristaniopsis laurina* (Watergums, T2-3) that are located along the length of the Silver Street verge, between the southwest corner of the existing building and the existing driveway in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must show their retention, along with the position and diameter of their trunks, canopies, SRZ's, TPZ's and Tree Identification Numbers, as taken from the Arboricultural Impact Assessment Report by Blues Brothers Arboriculture, dated 29/04/21 (*'the Arborist Report'*) in relation to the site and new works.
- b. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property must be located outside of their TPZ's, with the

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- Principal Certifier to ensure that all Services Plans are both prepared and then installed on-site to comply with this requirement.
- c. All Construction Certificate plans must show that the vehicle crossing and basement ramp will be provided off Botany Street, consistent with the architectural plans stamped received by Council 27/04/22.
 - d. Prior to the commencement of any site works, their trunks are to be physically protected by wrapping layers of geo-textile, underfelt, carpet, hessian or similar, from ground level to the underside of their crowns, to which, lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around their circumference, and are then to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
 - e. Each tree must also be physically protected by installing evenly spaced star pickets at a setback of **1.5 metres** to their east and west (measured off the outside edge of their trunks at ground level), matching up with the back of the kerb to their south, and the footpath to their north, to which, safety tape/para-webbing/shade cloth or similar shall be permanently attached so as to completely exclude/enclose each tree for the duration of works.
 - f. This protection shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
 - g. The applicant is not authorised to perform any other works to these public trees and must contact Council's Landscape Development Officer on 9093-6613 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, GIVING UP TO SIX WEEKS NOTICE, wholly at the applicants cost, with payment to be received prior to pruning, and prior to any Occupation Certificate.
 - h. Within the TPZ's, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
 - i. The Principal Certifier must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of works, and prior to any Occupation Certificate.
 - j. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$3,000.00** must be paid at the Cashier on the Ground Floor of the Administrative Centre, **prior to a Construction Certificate being issued for the development**, in order to ensure compliance with the conditions listed in this consent, and ultimately, preservation of the trees, as well as the adjoining public garden beds.

The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's '*Security Deposit Refund Application Form*' and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6613).

Any contravention of Council's conditions relating to the trees at any time during the course of works, or, prior to any Occupation Certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 80A (6) of the Environmental Planning and Assessment Act 1979.

Survey Infrastructure

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

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

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

Sydney Water Requirements

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

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

The Sydney Water [Tap in™](#) online service replaces the Quick Check Agents as of 30 November 2015

The [Tap in™](#) service provides 24/7 access to a range of services, including:

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

Sydney Water's [Tap in™](#) online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Compliance with the Building Code of Australia & Relevant Standards

20. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
21. Access and facilities for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010, relevant Australian Standards and conditions of consent, to the satisfaction of the Certifier.

BASIX Requirements

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

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

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

Building Encroachments

23. Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

Site stability, Excavation and Construction work

24. A report must be obtained from a suitably qualified and experienced *professional engineer/s*, which includes the following details, to the satisfaction of the Certifier for the development:-
- a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjacent land.
 - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
 - c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.
 - d) The adjoining land and buildings located upon the adjoining land must be adequately supported at all times throughout demolition, excavation and building work, to the satisfaction of the *Principal Certifier*.
 - e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the *Certifier*.

Traffic conditions

25. Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm

above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the Principal Certifier, are to be included in the construction certificate documentation.

26. At the south-west corner of the site (being at the intersection of Botany Street and Silver Street) measures are to be made to improve pedestrian visibility and safety. All new walls (and/or landscaping) should not exceed a height of 600mm above the adjacent footpath level for a distance of 2m along each of the street frontages from the corner. Alternatively, all new walls, fencing, landscaping should be splayed 2 metres by 2 metres. Details of compliance, to the satisfaction of the Principal Certifier, are to be included in the construction certificate documentation.
27. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.

Design Alignment levels

28. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:

- **To be provided in writing by the Development Engineer prior to the issuing of a construction certificate.**

The design alignment levels at the property boundary as issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.

Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881.

29. The alignment levels and site inspection by Council's Development Engineering Section will be issued at a prescribed fee of **\$777** calculated at **\$58.00** per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.
30. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

The height of the building must not be increased to satisfy the required driveway gradients.

Stormwater Drainage

31. Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the Principal Certifier. The drawings and details shall include the following information:

- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.

- b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
- c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
- i. Roof areas
 - ii. Paved areas
 - iii. Grassed areas
 - iv. Garden areas
- d) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
- e) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
- f) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.

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

- a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the *Principal Certifier* and details are to be included in the construction certificate.
- b) The stormwater must be discharged (by gravity) either:
- i. Directly to the kerb and gutter in front of the subject site in Botany Road or Silver Street; or
 - ii. Directly into Council's underground drainage system located in Botany Street or Silver Street via an existing kerb inlet pit; or
 - iii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

NOTES:

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

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

- c) Should stormwater be discharged to Council's street drainage system, an on-site stormwater detention system must be provided to ensure that the maximum discharge

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

An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an annual exceedance probability (AEP) of 1% (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1% AEP (1 in 100 year) storm.

- d) Should stormwater be discharged to an infiltration system the following requirements must be met;

i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.

- ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.

- iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)

- iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (eg. a road, laneway or reserve).

- d) Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

Where possible any detention tanks should have an open base to infiltrate stormwater into the ground. Infiltration should not be used if ground water and/or any rock stratum is within 2.0 metres of the base of the tank.

- e) Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1% AEP (1 in 100 year), 2 hour storm assuming both pumps are not working.

The pump system must also be designed and installed strictly in accordance with Randwick City Council's Private Stormwater Code.

- f) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;

- i. There are suitable clear-outs/inspection points at pipe bends and junctions.
- ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.

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- g) If connecting to Council's underground drainage system, a reflux valve shall be provided (within the site) over the pipeline discharging from the site to ensure that stormwater from Council drainage system does not surcharge back into the site stormwater system.
 - h) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.
 - i) A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.

Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:

- The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.
- The pit being constructed from cast in-situ concrete, precast concrete or double brick.
- A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).
- Provision of a sign adjacent to the pit stating, "This sediment/silt arrestor pit shall be regularly inspected and cleaned".

Sketch details of a standard sediment/silt arrestor pit may be obtained from Council's Drainage Engineer.

- j) The floor level of all habitable, retail, commercial and storage areas located adjacent to any detention and/or infiltration systems with above ground storage must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be provided.

(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).

- k) The maximum depth of ponding in any above ground detention areas and/or infiltration systems with above ground storage shall be as follows (as applicable):
 - i. 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area)
 - ii. 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
 - iii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
 - iv. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
 - v. Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

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

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

Site Seepage

33. A report must be obtained from a qualified, experienced Hydrogeological Engineer, which provides additional assessment of the site including further monitoring of any seepage flows/groundwater and the potential impact of seepage flows/groundwater and the water table upon the development, prior to issuing a Construction Certificate, to the satisfaction of the Principal Certifier.

The report must confirm whether or not the site is or may be affected by seepage flows/groundwater or *fluctuating water table* and the report must include details of the measures to be implemented to effectively manage any seepage flows/groundwater.

34. Where the site is affected by dry weather seepage flows, the development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:
- a) Seepage/ground water and subsoil drainage (from planter boxes etc) must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system
 - b) Adequate provision is to be made for the seepage flows/ground water to drain around the basement carpark (to ensure the basement will not dam or slow the movement of the ground water through the development site).
 - c) The walls of the basement level/s of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into the basement level/s of the building and the stormwater drainage system for the development.
 - d) Sub-soil drainage systems may discharge via infiltration subject to the hydraulic consultant/engineer being satisfied that the site and soil conditions are suitable and the seepage is able to be fully managed within the site, without causing a nuisance to any premises and ensuring that it does not drain or discharge (directly or indirectly) to the street gutter.
 - e) Details of the proposed stormwater drainage system including methods of tanking the basement levels and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced Professional Engineer to the satisfaction of the Principal Certifier and details are to be included in the construction certificate. **A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Principal Certifier.**

Waste Management

35. A Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Director of City Planning.

The Waste Management plan is required to be prepared in accordance with Council's Waste Management Guidelines for Proposed Development and must include the following details (as applicable):

- ☐ The use of the premises and the number and size of occupancies.
- ☐ The type and quantity of waste to be generated by the development.
- ☐ Demolition and construction waste, including materials to be re-used or recycled.
- ☐ Details of the proposed recycling and waste disposal contractors.
- ☐ Waste storage facilities and equipment.
- ☐ Access and traffic arrangements.
- ☐ The procedures and arrangements for on-going waste management including collection, storage and removal of waste and recycling of materials.

Further details of Council's requirements and guidelines, including pro-forma Waste Management plan forms can be obtained from Council's Customer Service Centre.

36. The garbage room shall be sized to contain a minimum of 13 x 240 litre bins (generally comprising of 6 garbage bins, 6 recycle bins and 1 FOGO) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.
37. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

Public Utilities

38. A *Public Utility Impact Assessment* must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.

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

Undergrounding of Site Power

39. Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in Botany Street. No Permanent Private Poles are to be installed with all relevant documentation submitted for the construction certificate to reflect these requirements to the satisfaction of the Principal Certifier. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out the works to the requirements and satisfaction of Ausgrid and at no cost to Council.

Landscape Plans

40. Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Plans by Melissa Wilson Landscape Architects, dwg's LS01-10, rev B, dated 03/06/21, and must be amended (where necessary) so as to also be consistent with the revised Architectural Plans by ESS, dwg's A0000-8201, stamped received by Council 27/07/2022, with both this statement and plans to then be submitted to, and be approved by, the Principal Certifier.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifier', as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

Certification and Building Inspection Requirements

41. Prior to the commencement of any building works, the following requirements must be complied with:
- a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.
 - A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - a *principal contractor* must be appointed for the building work and any applicable requirements of the *Home Building Act 1989* must be satisfied accordingly; and
 - the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
 - at least two days' notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

42. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, the relevant requirements of the *Home Building Act 1989* must be complied with.

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

Dilapidation Reports

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

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

Construction Site Management Plan

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

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

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

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

Demolition Work Plan

45. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/work health and safety provisions and the following requirements:

- a) The Demolition Work Plan must be submitted to the Principal Certifier, not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

- b) Any materials containing asbestos (including Fibro) must be safely removed and disposed of in accordance with the NSW Work Health and Safety Regulation 2017, SafeWork NSW Code of Practice for the Safe Removal of Asbestos, Protection of Environment Operations (Waste) Regulation 2014 and Council's Asbestos Policy.

Construction Noise & Vibration Management Plan

46. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Council's conditions of consent.

- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.

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

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

Public Liability

47. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.

Construction Traffic Management

48. An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Portland Crescent Road for the duration of the demolition & construction works.

The 'Works Zone' must have a minimum length of 12m and extend for a minimum duration of three months. The suitability of the proposed length and duration is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Randwick Traffic Committee.

The requirement for a Works Zone may be varied or waived only if it can be demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council's Traffic Engineers) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.

49. A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.

The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:

- A description of the demolition, excavation and construction works
- A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- Any proposed road and/or footpath closures
- Proposed site access locations for personnel, deliveries and materials
- Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- Provision for loading and unloading of goods and materials
- Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- Proposed hours of construction related activities and vehicular movements to and from the site
- Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Maritime Services, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

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

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

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

Public Utilities

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

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

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Inspections during Construction

52. Building works are required to be inspected by the *Principal Certifier*, in accordance with the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Building & Demolition Work Requirements

53. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Protection of Environment Operations (Waste) Regulation 2014;
- Randwick City Council Asbestos Policy.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

Removal of Asbestos Materials

54. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:
- Work Health & Safety legislation and SafeWork NSW requirements
 - Preparation and implementation of a *demolition work plan*, in accordance with AS 2601 (2001) – Demolition of structures; NSW Work Health and Safety Regulation 2017 and Randwick City Council's Asbestos Policy. A copy of the demolition work plan must be provided to Principal Certifier and a copy must be kept on site and be made available for Council Officer upon request.
 - A SafeWork NSW licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by SafeWork NSW or relevant legislation). Removal of friable asbestos material must only be

undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifier.

- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'Danger Asbestos Removal In Progress' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 20014*. Details of the disposal of materials containing asbestos (including receipts) must be provided to the Principal Certifier and Council.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier as soon as practicable after completion of the asbestos related works, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Excavations, Back-filling & Retaining Walls

55. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Details of proposed retaining walls, shoring, piling or other measures are to be submitted to and approved by the Principal Certifier.

Support of Adjoining Land

56. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

Sediment & Erosion Control

57. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom.

Details must be included in the Construction Site Management Plan and a copy must be provided to the Principal Certifier and Council. A copy must also be maintained on site and be made available to Council officers upon request.

Dust Control

58. During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.

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

Dust control measures and practices may include:-

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

Temporary Site Fencing

59. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:

- a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
- b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- c) All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
- d) An overhead ('B' Class) type hoarding is required to be provided to protect the public (unless otherwise approved by Council) if:
 - ☐ materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
 - ☐ building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
 - ☐ it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
 - ☐ as may otherwise be required by WorkCover, Council or the *Principal Certifier*.

Notes:

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

Public Safety & Site Management

60. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.

- b) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- c) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.
- e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- f) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

Site Signage

61. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifier*,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

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

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

Survey Requirements

63. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifier:

- prior to construction (pouring of concrete) of footings and boundary retaining structures,
- prior to construction (pouring of concrete) of each floor slab,
- upon completion of the building, prior to issuing an *Occupation Certificate*,
- as otherwise may be required by the *Principal Certifier*.

The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council, if the Council is not the Principal Certifier for the development.

Building Encroachments

64. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.
65. This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Road/Asset Opening Permit

66. Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:
- a) A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.
 - b) Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out.
 - c) Relevant *Road / Asset Opening Permit* fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,
 - d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a *final occupation certificate* or occupation of the development (whichever is sooner).
 - e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.

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

Roadway

- 67. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days' notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Traffic Management

- 68. Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- 69. All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.
- 70. All conditions and requirements of the NSW Police, Roads & Maritime Services, Transport and Council must be complied with at all times.

Stormwater Drainage

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

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

Groundwater

- 72. A separate written approval from Council is required to be obtained in relation to any proposed discharge of groundwater into Council's drainage system external to the site, in accordance with the requirements of Section 138 of the Roads Act 1993.

Vegetation

- 73. Due to a combination of their small size and direct conflict with the works as shown, no objections are raised to the removal of all vegetation within this development site, including the *Frangipani* (T1) right in the northwest corner, subject to full implementation of the approved Landscape Plans.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifier' issuing an 'Occupation Certificate'.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

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

Fire Safety Certificates

75. Prior to issuing an interim or Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

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

Structural Certification

76. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifier*. A copy of which is to be provided to Council with the Occupation Certificate.

Sydney Water Certification

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

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

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

BASIX Requirements & Certification

78. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that any relevant BASIX commitments and requirements have been satisfied.

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

Noise Control Requirements & Certification

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

In this regard, the operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than

5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

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

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

Street and/or Sub-Address Numbering

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

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

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

Council's Infrastructure, Vehicular Crossings & Road Openings

82. The owner/developer must meet the full cost for a Council approved contractor to:
- Construct a full width concrete heavy duty vehicular crossing and layback at kerb opposite the vehicular entrance to the premises on Botany Street to Council's specifications and requirements.
 - Remove the redundant concrete vehicular crossing and layback on Silver Street and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
 - Re/construct concrete footpaths along the full site frontages, as required. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.
 - Adjust line marking/signage as required to add additional rear to kerb on-street carspaces immediately in front of the redundant vehicle crossing on Silver Street & subject to the approval of Randwick Traffic Committee. The applicant shall contact Council's Department of Integrated Transport regarding this matter.
83. Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
84. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent,

Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.

- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

Service Authorities
Sydney Water

85. A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

The Section 73 Certificate must be submitted to the Principal Certifier and the Council **prior to the issuing of an Occupation Certificate**.

Undergrounding of Power

86. The Principal Certifier shall ensure that power supply to the completed development has been provided as an underground (UGOH) connection from the nearest mains distribution pole in Botany Street. All work is to be to the requirements and satisfaction of Ausgrid and at no cost to Council.

NOTE : Any private poles must be removed prior to the issuing of an occupation certificate.

Pedestrian safety/Sight Lines

87. The Principal Certifier shall ensure that the 2m x 2m splay/clear zone at the corner of Silver street and Botany Street as well as the 1.5m x 1.5m splays/clear zones adjacent to the internal driveway have been provided as per the conditions of this consent.

Stormwater Drainage

88. A "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the onsite detention/infiltration system is maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

Notes:

- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
 - b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
 - c. Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.
89. A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):
- Finished site contours at 0.2 metre intervals;
 - The location of any detention basins/tanks with finished surface/invert levels;

- Confirmation that orifice plate/s have been installed and orifice size/s (if applicable);
- Volume of storage available in any detention areas;
- The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
- Details of any infiltration/absorption systems; and
- Details of any pumping systems installed (including wet well volumes).

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

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

91. Where the site is affected by dry weather seepage flows, the applicant shall submit to the Principal Certifier and Council certification from a suitably qualified and experienced professional engineer, confirming that the walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s and that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent. There must be no dry weather seepage/groundwater flows discharging to Council's street gutter or underground drainage system.

Survey Infrastructure – Restoration

92. Where a Surveyor-General's Approval for Survey Mark Removal has been granted by NSW Spatial Services, documentary evidence of restoration of the removed survey mark must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council prior to the issue of an occupation certificate.

The documentary evidence is to consist of a letter Signed by a Registered Land Surveyor confirming that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal under condition "Survey Infrastructure – Identification and Recovery" have been complied with.

Landscaping

93. Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry (eligible for membership with a nationally recognised organisation/association) must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the (amended if necessary) Landscape Plans by Melissa Wilson Landscape Architects, dwg's LS01-10, rev B, dated 03/06/21, as well as any other relevant conditions of consent.
94. Suitable strategies must also be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
95. The nature-strip upon Council's Silver Street footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.

Waste Management

96. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.
97. The waste storage areas shall be clearly signposted.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Use of parking spaces

98. The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.

Residential Parking Permits

99. All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.
100. A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.

Fire Safety Statements

101. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council (at least on an annual basis) in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

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

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

Environmental Amenity

102. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

Stormwater Detention/Infiltration System

103. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.

Development Application Report No. D56/22

Subject: 3 Oswald Street, Randwick (DA/113/2022)


Executive Summary

Proposal:	Alterations and additions to the existing terrace dwelling including ground floor rear extension and internal works
Ward:	East Ward
Applicant:	Mr J Spiteri
Owner:	Mr L N P Walker & Ms I N Van Der Griend
Cost of works:	\$198,000.00
Reason for referral:	The site is a Local Heritage Item and the development contravenes the development standards for floor space ratio by more than 10%.

Recommendation

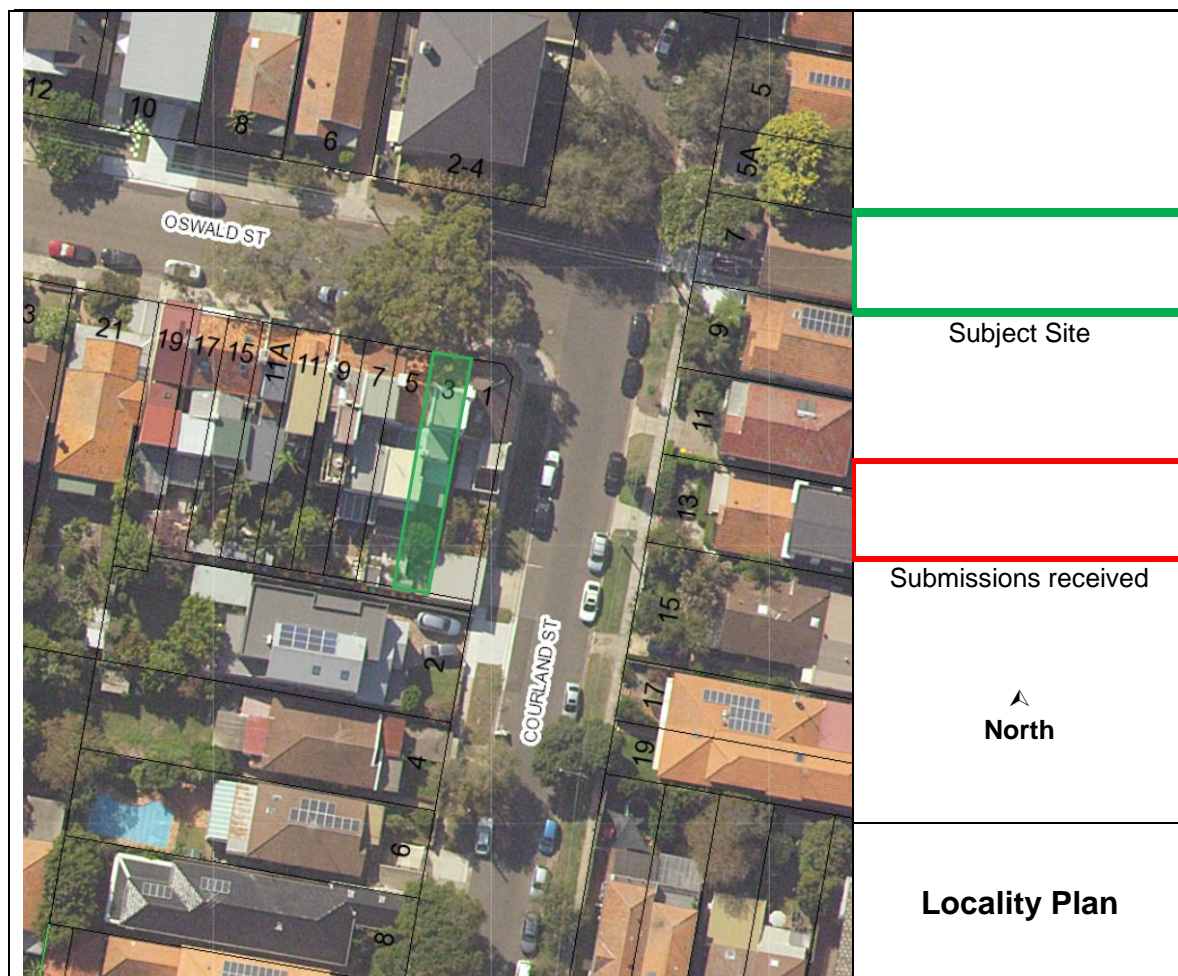
- A. That the RLPP is satisfied that the matters detailed in Clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, as amended, to Development Application No. DA/113/2022 for alterations and additions to the existing terrace dwelling including a ground floor rear extension and internal works, at No. 3 Oswald Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (attached dwelling) - DA/113/2022 - 3 Oswald Street, RANDWICK NSW 2031

D56/22

D56/22



1. Executive summary

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

- The development involves partial demolition and works to a local heritage item.
- The development contravenes the development standard for floor space ratio by more than 10%.

The proposal seeks development consent for alterations and additions to the existing terrace dwelling including a ground floor rear extension and internal works.

The key issues associated with the proposal relate to alterations and additions to a heritage item, and exceedance of the FSR development standard.

The proposed development does not comply with the maximum 0.75:1 FSR development standard within Clause 4.4 of Randwick Local Environmental Plan 2012 (RLEP 2012). The proposed FSR of 0.96:1 represents a 28% variation to the development standard.

The proposal is recommended for approval subject to a non-standard condition that requires:

- The privacy screens located on the north-western and south-eastern sides of the proposed patio be reduced in height to 1.6m from the finished floor level.

2. Site Description and Locality

The site is identified as Lot 2, DP 108445, No. 3 Oswald Street, Randwick NSW 2031. The site is located on the south-western side of Oswald Street between Clyde Street to the north-west and Courland Street to the south-east.

The site is an irregular shaped allotment with a 3.905 metre frontage to Oswald Street, a 27.35 metre south-eastern side boundary, a 3.725 metre south-western rear boundary, and a total site area of 107.5m².

Existing on site is a multistorey part three storey residential terraced dwelling. The rear of the site is paved and has a single tree. There is no existing vehicular access or parking on site.

The surrounding area is characterised by residential development, including dwelling houses and residential flat buildings. The site forms part of a Local Heritage Item, 'Terraced row' with 1–19 Oswald Street (Item I420 within Part 1, Schedule 5 of Randwick Local Environmental Plan 2012 (RLEP 2012)).



Figure 1: North-east oblique view of the subject site and surrounding area (Source: Nearmap 2022)



Figure 2: Subject site from Oswald Street frontage.

D56/22



Figure 3: Subject site from Courland Street.



Figure 4: Subject site from Courland Street.



Figure 5: Rear of the existing dwelling at the subject site.

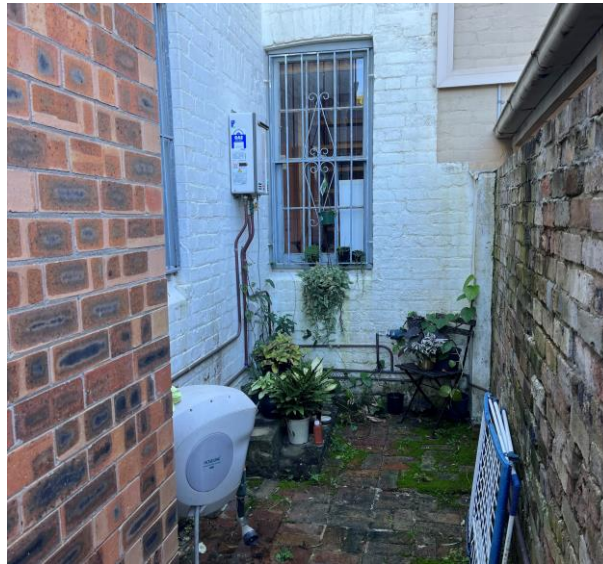


Figure 6: Rear courtyard area of the existing dwelling at the subject site.



Figure 7: Rear yard of the existing dwelling at the subject site.

3. Relevant history

The following is a table outlining a brief history of applications relevant to the subject allotment:

DA Number	Status	Description of works
BA/620/1978	Approved	Alterations and additions.
BA/859/1984	Approved	Dwelling addition.
BA/872/1985	Approved	Brick fence.
DA/150/2015	Approved	Alterations and additions to existing attached terraces including the replacement of terracotta roof tiles with corrugated roofing, changes to various openings, and new upper level juliet balcony and new deck at the rear of 3 Oswald Street (Heritage Item).

4. Proposal

The proposal seeks development consent for alterations and additions to the existing terrace dwelling including a ground floor rear extension and internal works. Specifically, the proposal is seeking to:

Ground Floor

- Demolition of the rear portion of the existing dwelling including removal of an existing internal staircase.
- Removal of existing brickwork between existing lounge room and dining room.
- Addition of a new rear extension to accommodate an extended living room, separate laundry with bathroom facilities and small courtyard area adjoining the dwelling to the south-eastern side.
- Addition of a new unroofed patio with direct access from the rear living area.
- Addition of a 1.8m privacy screen located along the north-western and south-eastern sides of the patio area.
- Refurbishment of the existing kitchen with an addition of a new window to proposed courtyard area.
- Removal and addition of a new internal staircase to the north-western side of the dwelling.
- Addition of a new door from existing dining room to proposed courtyard area.
- Addition of a privacy screen to the south-eastern side of the courtyard to the underside of the awning at No. 1 Oswald Street.
- Removal of a Port Wine Magnolia tree at the rear of the site to accommodate the proposed patio.

First Floor

- Removal of an existing spiral and straight staircases on this level, including the filling in of resulting open void area.
- Removal of existing internal brick wall and replace with new timber frame/gyprock wall.
- Addition of a new staircase to the north-western side of the dwelling to access the floor above.
- Addition of new internal new timber frame/gyprock walls to accommodate a new bedroom.
- Replace existing window with a smaller window in the proposed new bedroom.

Second Floor

- Addition of a new closet to the north-eastern side of the dwelling.

Roof

- Replace existing tiles with new to match existing above the front section of the roof form.

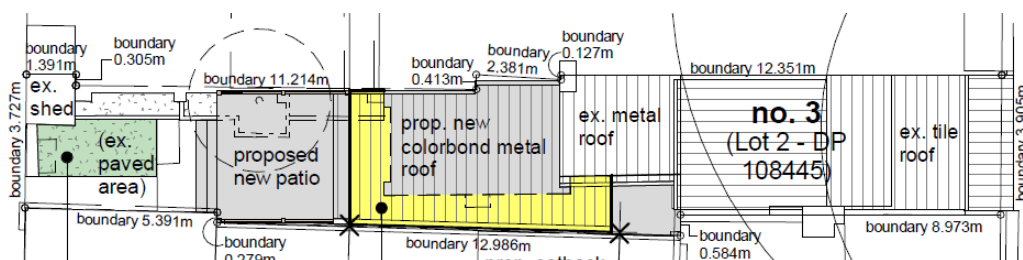


Figure 8: Proposed site plan – 3 Oswald Street Randwick (Source: John Spiteri Design and Drafting)

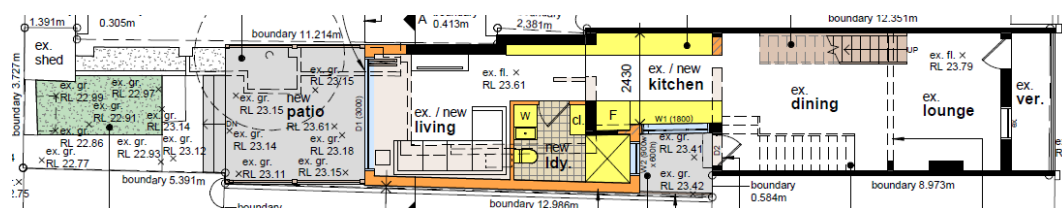


Figure 9: Proposed ground floor plan – 3 Oswald Street Randwick (Source: John Spiteri Design and Drafting)

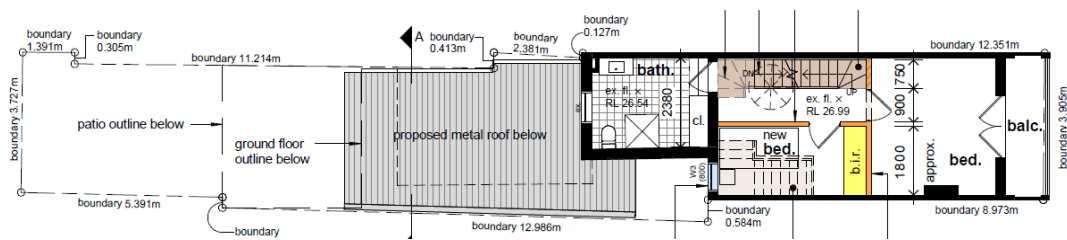


Figure 10: Proposed first floor plan – 3 Oswald Street Randwick (Source: John Spiteri Design and Drafting)

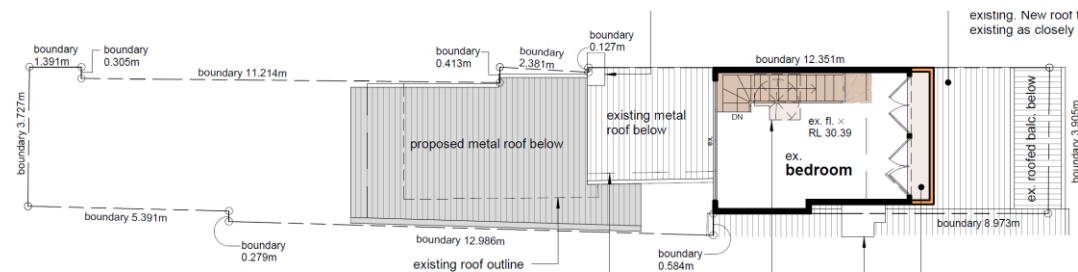


Figure 11: Proposed second floor plan – 3 Oswald Street Randwick (Source: John Spiteri Design and Drafting)

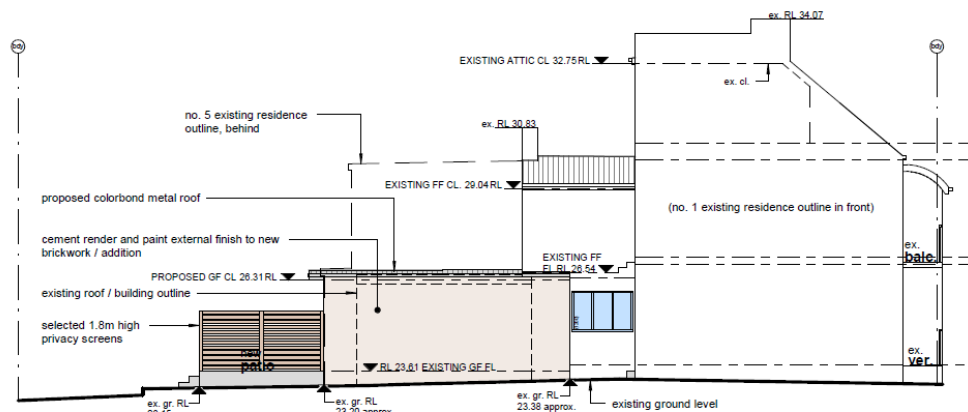


Figure 12: Proposed south-eastern elevation – 3 Oswald Street Randwick (Source: John Spiteri Design and Drafting)

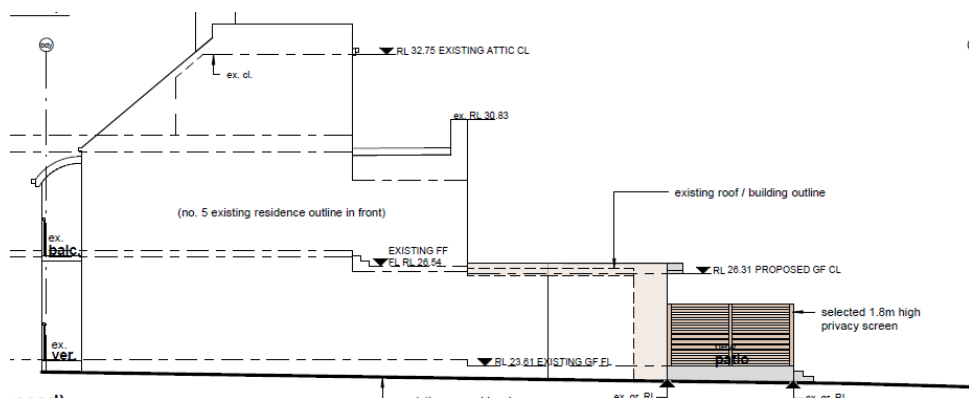


Figure 13: Proposed north-western elevation – 3 Oswald Street Randwick (Source: John Spiteri Design and Drafting)

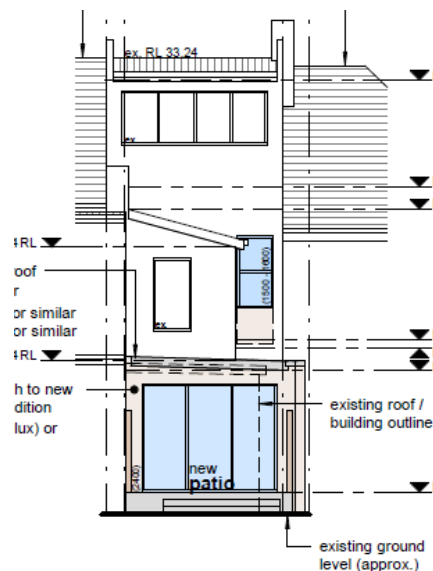


Figure 14: Proposed south-western elevation – 3 Oswald Street Randwick (Source: John Spiteri Design and Drafting)

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council's Community Participation Plan. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate No. A446050 has been submitted, prepared by Smith Building Design and Drafting, dated 17 January 2022, satisfying the requirements of the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

6.2. State Environmental Planning Policy (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. The subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject to a site audit statement. In this regard it is Council's position that the site will be suitable for the proposed development, posing no risk of contamination. Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered to be suitable for the proposed land use.

6.3. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Description	Standard	Proposed	Compliance (Yes/No/NA)
Cl. 4.3: Height of Building (max)	9.5m	9.45m	Yes
Cl. 4.4: Floor Space Ratio (max)	0.75:1 Site = 107.5m ² Max GFA = 80.625m ²	0.96:1 (103.61m ²) Existing FSR = 0.9:1	No

6.3.1. Clause 4.6 - Exceptions to development standards

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

6.3.2. Clause 5.10 - Heritage conservation

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes the 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.

See Heritage Referral below.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Existing FSR	Proposed FSR	Proposed variation	Proposed variation (%)
Cl. 4.4: Floor space ratio (max)	0.75:1	0.9:1	0.96:1	103.61m ²	28%

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

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

1. *The applicant's written request has adequately 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's written request has adequately 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 adequately 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.
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the *Environmental Planning and Assessment Regulation* 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

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(4) have been satisfied for each contravention of a development standard.

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

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

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

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

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the additional GFA is relatively minor (6.98m²) and is located at the ground floor level only. The applicant asserts that the ground floor addition is consistent with the footprint of the adjoining terrace dwellings and will not be visible from the public domain.

The applicant notes that the proposal would be consistent with the FSR applicable to dwelling houses or semi-detached dwelling under Clause 4.4(2A) of the RLEP as the site area is less than 300sqm.

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

The applicant's written justification seeks to demonstrate that this objective is satisfied by noting that the proposal is the development is consistent with the height, scale and character of development in the locality and located to the ground floor only.

The BASIX certificate (submitted by the applicant) shows that the development meets the relevant water and energy saving targets.

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

The applicant's written justification seeks to demonstrate that this objective is satisfied by noting that the addition does not change the overall height of the existing building and will remain compatible with the bulk, scale and character of the other heritage items in the vicinity.

When viewed from the subject sites rear yard and the rear yards of adjoining properties, the addition will be visible however not detrimental nor substantially different from the rear bulk and appearance of adjoining dwellings in terms of overshadowing, overlooking, and general aesthetic bulk.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the addition is limited to the ground floor only and is consistent with the footprint of the adjoining terrace dwellings, not having an adverse impact on visual bulk. As such, the applicant asserts that the proposed development has been designed in a sympathetic manner and will not result in an adversely impact on the amenity of adjoining and neighbouring land in terms of overshadowing, loss of privacy and views.

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

The bulk and scale of the proposal is sympathetic to the streetscape and surrounding development. No additional bulk is visible from the Oswald Street streetscape, and the massing of the alterations and additions is consistent with that of the terrace group, when viewed from the rear.

The proposed development is well articulated. The ground floor extension adds further articulation to the dwelling, as well as the retention of a small courtyard along the south-eastern side boundary. The rear façade is also articulated with new rear doors and windows.

In regard to amenity impacts:

- Visual bulk: The development retains its presentation as a two storey attached dwelling when viewed from the Oswald Street streetscape. The height and rear building alignment of the additions are consistent with that of surrounding development within the terrace row. The additional floor space is limited to the ground floor.
- Loss of privacy: A detailed assessment of privacy impacts is provided in Appendix 3 (Item 5.3 – Visual Privacy). Subject to compliance with recommended conditions, the proposed development will not result in any unreasonable adverse privacy impacts.
- Overshadowing and views: the proposal will not have any adverse impacts to overshadowing or views.

Council's Heritage Planner has reviewed the application and has advised that the proposal is satisfactory on heritage grounds and raises no issues with the proposed development.

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

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

- The development meets the objectives of the zone and development standard

- The development has been designed to complement the existing scale and character of surrounding development.
- The proposal will integrate seamlessly with the existing streetscape and does not result in adverse amenity impacts on adjoining properties in the way of bulk impact, shadow impact or privacy loss.
- The proposal does not conflict with any matters of state or regional environmental planning significance, nor does it conflict with any state planning policies or Ministerial Directives.
- The proposal is acceptable in the context of the overall development of the broader area.

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

3. Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Floor Space Ratio standard and R3 zone is provided below:

Assessment against objectives of floor space ratio standard

For the reasons outlined in the applicant's written request, the development is consistent with the objectives of the FSR standard. This has been outlined above.

Assessment against objectives of the R3 zone

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

The applicant asserts that the objectives of the R3 zone have been met, with the following statement: The proposed development is consistent with the relevant objectives of the R3 – Medium Density Residential zone in that it will provide the housing needs of the dwelling occupants; ensure the desirable elements of the existing streetscape and built form are being maintained; and designed in a sympathetic manner to minimise potential impact upon the amenity of the adjoining residents.

Assessing officer's comment: The proposed development will provide for the housing needs of the community. The bulk and scale of the proposal remains consistent with the medium density residential character of the area and is sympathetic to surrounding built form, including the heritage item terrace group. No additional bulk is visible from the Oswald Street streetscape, and the massing of the alterations and additions is consistent with that of the terrace group, when viewed from the rear. The development maintains the amenity of residents – the proposed FSR does not result in adverse visual bulk impact, overshadowing, privacy impact or view impact.

The development is consistent with the objectives of the floor space ratio standard and the R3 zone. Therefore, the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the maximum floor space ratio standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the FSR development standard.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues above.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.

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

9.1. Discussion of key issues

Heritage

The site is part of a terraced row, comprising nos.1-19 Oswald Street, listed as a heritage item (I 420) under Schedule 5 of Randwick LEP 2012. Therefore, under Clause 5.10 of the RLEP, consideration must be given to the impact that that development may have upon the significance of the heritage item.

The proposal has been considered by Council's Heritage Planner, who concludes that the proposed alterations and additions are satisfactory. Suitable conditions of consent have been recommended for inclusion with respect to photographic archival recording, colour, materials and finishes, and proposed paint scheme. See **Appendix 1** below.

10. Conclusion

That the application for alterations and additions to the existing terrace dwelling including a ground floor rear extension and internal works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R3 zone in that the proposed development will provide for the housing needs of the community within a medium density residential environment and protects the amenity of residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The applicant's written requests under Clause 4.6 of RLEP has adequately demonstrated that compliance is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the FSR and building height development standards.

- A non-standard condition has been included to require that the privacy screens located on the north-western and south-eastern sides of the proposed patio be reduced in height to 1.6m from the finished floor level.

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage Planner

The Site

The site is part of a terraced row, comprising nos.1 – 19 Oswald Street, listed as a heritage item under Randwick LEP 2012. The Heritage NSW database sheet for the building describes the building as:

Row of Victorian terraces, c. 1880? Most have suffered minor alterations (false shutters, dormer windows, concrete roof tiles, quarry tiles, security grilles) and are inconsistent in colour schemes and minor details. Latter includes style of door and treatment of verandah and balcony fringes. Most altered detail reasonably sympathetic but tends to be inconsistent from house to house. Corner house ruined but this does not spoil group. A very good row, of considerable streetscape value. Good street planting in front consists of tall mature Eucalypts.

No.3 retains much of its original character including iron palisade fencing and balcony railing, double hung timber window at ground floor level, and upper level French doors and sidelights. Alterations and additions to the rear of nos.5 and 7 appear to have adopted a similar building envelope. A second floor addition dates from the late 1970s or early 1980s. To the north east of the site the Bungalow at no.5 Courland Street is also listed as a heritage item.

Background

DA/150/2015 for to nos.3 – 5 Oswald Street included replacement of existing non-original terracotta tiled roofing with corrugated iron (work not carried out). Changes to existing rear openings to no.3 were proposed at ground, first floor level, and second floor level. The application was accompanied by a thorough Heritage Impact Statement, prepared by David Scobie Architects Pty. Ltd.

Proposal

The current proposal is for internal and external alterations and additions to the dwelling at ground floor, first floor level, and second floor level. At ground floor level the existing stair is to be replaced by a straight stair, and it is proposed to enlarge the original rear wing by removing the side and rear walls, providing a new kitchen, laundry, bathroom and living area. A rear patio is also to be provided. At first floor level new walls are proposed to provide a separate bedroom and stair hall. At second floor level it is proposed to extend the existing bedroom forward to provide a closet within the roof space. The existing terracotta roof tiles are to be replaced by new terracotta roof tiles.

Submission

The proposal has been accompanied by a Statement of Environmental Effects (footer refers to 14 Mitchell Street, Chifley). In relation to Heritage Conservation, the SEE recognises that the row of terraces is listed as a heritage item and notes that:

The proposed development has been designed in a sympathetic manner to minimise the potential impact upon the heritage significance of the heritage items. The original fabric remains largely unaltered and the rear ground floor addition is consistent with the existing development on the adjacent sites.

Controls

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

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

The Heritage section of Randwick Development Control Plan 2013 provided Objectives and Controls in relation to heritage properties. In relation to Design and Character, clause 2.2 of the DCP includes an Objective that street elevations and visible side elevations must not be significantly changed. Additions must be located to the rear or to one side of the building to

minimise impact in the streetscape. In relation to Scale and Form, clause 2.3 of the DCP includes a Control where rear additions are proposed to attached dwellings (eg- terrace houses) the additions must not compromise the integrity of the front elevation or the forms of relatively intact rear wings. In relation to Materials, Finishes and Colour Schemes, clause 2.6 of the DCP includes a Control that new or replacement roof materials must match existing materials. Alternative materials may be considered appropriate to the architectural style of the building and the streetscape context, and must be submitted for approval.

Comments

It appears from physical and documentary evidence that the original form of the terrace consisted of the main pitched roof, together with a two storey rear wing with a skillion roof falling to the side, and a possibly a single storey wing extending further to the rear. A range of alterations and additions to the rear of individual dwellings in the group have been carried out including extending the ground and first floor level wings towards the rear and to the side (so that the rear wing extends from boundary to boundary), as well as boxy rear attic level additions. Extensive on-site photographs have now been provided.

Ground floor changes

Proposed external changes include enlarging the original rear wing by removing the front, rear and side walls, to provide a new kitchen, laundry/bathroom and living area, and construction of a new patio behind. The existing skillion roof is to be replaced by an enlarged skillion roof sloping to the side. Proposed internal changes include replacing the existing stair with a straight stair. The wider rear part of the existing single storey rear wing is a later addition and the remainder of the rear wing comprises secondary building fabric, including the existing windows to the dining and kitchen areas which are to be replaced. A number of dwellings in the group have rear additions which extend across the site from boundary to boundary. The enlarged rear addition will extend around 1m further to the rear. It is unclear how the rear addition will relate to the rear building line of additions to adjacent properties. The existing stair which is to be replaced is not original. The proposed internal and external changes, are not inconsistent with changes to the rear wings of other dwellings in the group and will not be visible from Oswald or Courland Streets. A consent condition should be included requiring archival recording of the areas of the dwelling affected by the proposed changes.

First floor changes

Proposed external change comprises replacement of an existing rear window. The existing window is not original. Proposed internal changes comprise new walls to provide a separate bedroom and stair hall. It appears that original internal detailing including ceilings, cornices and skirtings have been lost in this area. The proposed changes will not affect original building fabric, will not result in changes to the existing building envelope and will have minimal visibility from Oswald or Courland Streets.

Second floor attic level changes

Proposed internal change comprises extending the existing bedroom forward to provide a closet within the roof space. The existing second storey addition, which contributes to the inconsistency of rear building envelope within the group, was approved in the late 1970s or early 1980s. The proposed internal changes will not affect original building fabric, will not result in changes to the existing building envelope and will have no visibility from Oswald or Courland Streets.

Replacement roofing

Of the nine dwellings in the terraced group, all but one have terracotta tiled roof. The date of installation of the terracotta tiles is unknown. Original roofing would have possibly been slate, but more likely (given the modest form of the terrace) galvanised corrugated iron. No.19 Oswald Street at the opposite end of the group has a red corrugated steel roof. The dwellings in the group step up the hill - pairs of roofs at the same level, separated by parapets. Nos.3 and 5 therefore have continuous roofs. The proposed new roofing, though not related to typical roof materials for the building type and architectural period, will retain the streetscape consistency of the existing predominantly terracotta tiled roofs.

No details of materials and finishes have been provided, but the front elevation notes that “new roof tiles are to match existing as closely as possible”. A consent condition should be included requiring the submission of a Schedule of Materials and Finishes.

1.2. Landscape Officer

An application has been received for alterations and additions to the existing terrace dwelling including a ground floor rear extension and internal works (Heritage Item & variation to FSR) at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by John Spiteri, dwg 20.128, sheets A01-A13, dated 17/01/22;
- Statement of Environmental Effects by John Spiteri dated November 2021;
- Detail & Level Survey by Wumara Group, dated 04/08/20.

Tree Management Comments

There is a row of large and established native trees on Council's Oswald Street footpath, spaced out across the width of this row of terrace houses, which are protected by the DCP, and as group, are a main feature of the streetscape, providing a strong contribution to the Heritage characteristics of the item/area.

They comprise a 15m tall *Eucalyptus haemastoma* (Scribbly Gum) directly in front of this development site, with the crown of the larger, 20m+ *Eucalyptus microcorys* (Tallowwood) in front of the adjoining property to the west, no.7 then also encroaching across the full width of this site as well.

No external works are proposed across this frontage, with access to the rear setback also available directly from the Right of Way in Courland Street; however, given the significance of these trees to the streetscape and heritage values, precautionary protection conditions are deemed warranted so as to avoid secondary impacts such as damage by trucks, deliveries and similar during the course of works, and have been included in this report.

The only other vegetation that requires comment is in the rear yard of the subject site, along the western boundary, where there is a mature 4m tall *Michelia figo* (Port Wine Magnolia) which despite assisting with screening and privacy between the private open space of this site and no.7, is not significant in anyway, and as the plans show the dwelling being extended into this same area (new concrete slab/patio), it could not remain, with any re-design to attempt its retention to impact the viability of the entire proposal, so conditions allow its removal, as shown.

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

Clause 4.6 – Exception to Development Standards

The floor space ratio under Clause 4.4 of the RLEP applies to the proposal and the proposed variation is summarised in the table below:

Site Area:	107.5m ²
Maximum allowable FSR/GFA:	0.75:1 or 80.625m ²
Existing FSR/GFA:	0.90:1 or 96.63m ²
Proposed FSR/GFA:	0.96:1 or 103.61m ²
Proposed area exceeding maximum FSR/GFA:	0.21:1 or 22.985m ²

As a result, an objection, under Clause 4.6 of the LEP is provided below to justify that the full compliance with the maximum floor space ratio standard contained in the LEP, in the circumstances, is unnecessary and unreasonable.

The objection to the identified standard is based upon Clause 4.6(3) and Clause 4.6(4) of the LEP, which states:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

In respect to Clause 4.6(3)(a) above, it is considered that strict compliance with the maximum floor space ratio standard is unreasonable and unnecessary in the circumstance of the case for the following reasons:

- The additional GFA is relatively minor (i.e. 6.98sqm more than the existing development) and is located at the ground floor level only. As illustrated in Figures 1 and 2, the additional area at ground floor level is consistent with the footprint of the adjacent dwellings and will not be visible from the public domain. In addition, the proposed additions are much smaller in scale when compared with other additions to the adjoining dwellings and therefore will not result in any significant adverse impact upon the amenity of the adjoining neighbours.



Figure 2: View of the existing development including the subject site from Courland Street

- The proposal would be consistent with the FSR applicable to dwelling houses or semi-detached dwellings under Clause 4.4(2A) of the RLEP as the site area is less than 300sqm.
- The proposal does not involve any changes to the overall height of the existing building and will remain compatible with the bulk, scale and character of other heritage items in the vicinity.
- The proposed development has been designed in a sympathetic manner and will not result in any adverse impacts upon the amenity of the adjoining dwellings in terms of overshadowing, loss of privacy or views.
- The proposal is consistent with the objectives of the floor space ratio standard, contained in Clause 4.4 of the LEP, in that:
 - it will provide an appropriately scaled development that is consistent with the existing surrounding built form.
 - the proposal incorporates appropriate articulation along the side elevation including the provision of a courtyard area to allow adequate day light and ventilation to the subject dwelling and minimise visual bulk on the adjoining neighbour.

-
- the proposal will remain compatible with the scale and character of the adjoining heritage items as it only relates to minor rear ground floor addition as shown in Figures 1 and 2.
 - The proposal relates to rear ground floor addition only and has been designed in a sympathetic manner that will not result in any adverse impact upon the amenity of the adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

In addition, the proposed contravening of the development standard is considered to be in the public interest and supportable on the following environmental planning grounds as per Clause 4.6(3)(b) of the LEP:

- The proposed development is consistent with the relevant objectives of the R3 – Medium Density Residential zone in that it will provide the housing needs of the dwelling occupants; ensure the desirable elements of the existing streetscape and built form are being maintained; and designed in a sympathetic manner to minimise potential impact upon the amenity of the adjoining residents.
- The departure from the maximum FSR standard will not result in any significant adverse impact upon the amenity of the adjoining neighbours in terms of overshadowing, loss of privacy or views.
- The proposed variation to the floor space ratio standard does not conflict with any matters of State or regional environmental planning significance, nor does it conflict with any State Planning Policies or Ministerial directives. The significance of the non-compliance is acceptable in the context of the overall development of the broader Chifley area.
- The public benefit would be best served by approval of the development application under consideration, given the absence of any demonstrable adverse impacts resulting from the proposal.
- It is considered that due to the absence of any demonstrable adverse impacts arising from the proposed development, as argued elsewhere in this objection, adherence to the subject development standard would hinder the attainment of the objects of Section 5(a) (i) and (ii) of the Environmental Planning and Assessment Act 1979 (as amended). Further, the proposed development is consistent with the relevant objectives of the floor space ratio standard.

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For the above reasons, it is considered that the objection under Clause 4.6 of the LEP satisfactorily demonstrates that strict adherence to the maximum floor space ratio standard is unreasonable and unnecessary in the subject application, and consent to the proposed development, would be in the public interest.

Appendix 3: DCP Compliance Table**3.1 Section 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 (53.75m ²) is to be landscaped open space.	Existing = 42% (45m ²) Proposed = 33% (34.5m ²) The non-compliance is consistent with the other terrace dwellings between 1-19 Oswald Street. As such, in this instance, it is considered acceptable.	Acceptable, on merit
2.2.2	Deep soil area		
	<ul style="list-style-type: none"> (i) A minimum of 25% of the site area (26.9m²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting. (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. (iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting. (iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes. (v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties. 	Existing = 5.3% (5.73m ²) Proposed = 6.9% (7.43m ²) The proposal increases the amount of permeable deep soil area at the subject site. As such, the increase on the existing non-compliance is considered acceptable.	Acceptable, on merit
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. (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 	The private open space to the rear of the dwelling adjoins the extended living room on the ground floor level. The private open space is 33.5m ² .	Yes, complies

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DCP Clause	Control	Proposal	Compliance
	<p>possible can also contribute to passive surveillance of common areas.</p> <p>iv) Each dwelling is provided with an area of useable private open space or courtyard area, at ground and/or podium level with minimal or no level changes; and</p> <p>v) A minimum area of 20 square metres of private open space should be provided at ground and/or podium level capable of containing a rectangle with minimum dimensions of 3m x 4m with minimal or no level changes.</p>		
3.	Building Envelope		
3.1	Floor space ratio		
	Maximum floor space ratio development standard: 0.75:1	Proposed = 0.96:1	No, refer to Detailed Assessment.
3.2	Building height		
	Maximum building height development standard: 9.5m	Proposed = 9.45m	Yes, complies
3.4	Setbacks		
3.4.2	Side setback		
	<p><u>Attached Dwellings</u></p> <p>(i) Attached dwellings should comply with the minimum side setback requirements for dwelling houses and dual occupancies (attached and detached) (see Section C1 Low Density Residential: 3.3.2 Side Setbacks).</p> <p>Notwithstanding the above, side setbacks do not need to comply where they attach to another dwelling within the same development.</p>	<p>Minimum = 900mm</p> <p>Existing attached dwelling constructed to each side boundary. Proposal maintains the nil side setbacks characteristic of the terraces in this row.</p>	Yes, complies
3.4.3	Rear setback		
	(ii) For attached dwellings, provide a minimum rear setback of 25% of the allotment depth of 8m, whichever is the lesser.	<p>Minimum = 6.9m</p> <p>Proposed = 8.6m</p>	Yes, complies
4.	Building Design		
4.1	Building façade		

DCP Clause	Control	Proposal	Compliance
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</p> <p>(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>	The proposed dwelling is well articulated and avoids unrelieved blank walls.	Yes, complies
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	External wall height of the ground floor extension = 3.15m	Yes, complies
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Proposed floor to ceiling height of the ground floor extension = 2.7m	Yes, complies
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass 	Conditioned.	Conditioned.

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DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>		
4.10	Alterations and additions to attached dwellings		
	<p>(i) Additional storeys to the main building or street frontage are generally not supported where:</p> <ul style="list-style-type: none"> (a) A building is part of an intact group or streetscape; (b) The existing building is comparable to a consistent or predominant building height in the streetscape; (c) The predominant height of development in the vicinity of the site is single storey; <p>(ii) Additional storeys should respect the parapet or ridge line of immediately adjoining buildings</p> <p>(iii) Rear additions to terraces must not alter the parapet, ridgeline, chimneys and profile of party walls projecting above the roof of the terrace, as perceived from the front streetscape.</p> <p>(iv) Where the rear of a group of attached dwellings (terraces) displays a consistent form that is visible from a public space, alterations and additions are to be restricted to the ground floor.</p> <p>(v) Lean-to additions are the most traditional form of rear extension, and are suitable for most buildings. Generally, lean-to additions are to have a skillion roof with a low pitch that pitches away from the building or a flat roof may be acceptable at rear (as shown in the figure above).</p>	<p>The proposed ground floor extension is located behind the front façade. There is no visible bulk from the streetscape.</p> <p>The first and second floor alterations are located internally within the dwelling.</p> <p>The ground floor addition has a low pitch skillion roof.</p>	Yes

DCP Clause	Control	Proposal	Compliance
	(vi) A detached pavilion can be located at the rear boundary, limited to single storey where the allotment is long enough to provide adequate private open space and where the new structure will not adversely affect the amenity of neighbours. This may be extended to two storeys, on rear laneways.		
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 within this extent of site modification. (ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site. (iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.	The extent of the proposed excavation works at the rear of the site is considered acceptable.	Yes, complies
5.	Amenity		
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. (ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building. (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.	The submitted development has been accompanied with a BASIX Certificate identifying compliance with thermal and water energy. In addition, the location of windows and doors are considered acceptable, addressing the matters of natural light and ventilation.	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.	The proposed windows are of minimal concern regarding visual privacy.	Yes, subject to condition

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DCP Clause	Control	Proposal	Compliance
	(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 	<p>The proposed courtyard privacy screen adjoining the side of the dwelling will extend to the height of the neighbouring awning, reducing the impact of overlooking.</p> <p>The proposal includes 2x 1.8m privacy screens located along both sides of the proposed patio area, which is raised 460mm on the lower side from the natural ground level. The privacy screens provide visual privacy to adjoining dwellings at the expense of additional visual bulk. In order to balance the impact of the visual bulk and visual privacy, a non-standard condition of consent will be issued requiring that both privacy screens be reduced to a height of 1.6m from the finished floor level.</p>	
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 noise sources are proposed adjacent to bedroom windows.	Yes, complies

Responsible officer: William Joannides, Customer Service Planning and Development Officer

File Reference: DA/113/2022

Development Consent Conditions



D56/22

DA No:	DA/113/2022
Property:	3 Oswald Street, RANDWICK NSW 2031
Proposal:	Alterations and additions to the existing terrace dwelling including a ground floor rear extension and internal works (Heritage Item) (Variation to FSR).
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2021* and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated
Site Plan, Drawing No. 20.128 A, Sheet No. A01	John Spiteri Design and Drafting	12/08/2022
Ex. & Prop. GF Plan, Drawing No. 20.128 A, Sheet No. A05	John Spiteri Design and Drafting	12/08/2022
Ex. & Prop. FF Plan, Drawing No. 20.128 A, Sheet No. A06	John Spiteri Design and Drafting	12/08/2022
Ex. & Prop. Attic Plan, Drawing No. 20.128 A, Sheet No. A07	John Spiteri Design and Drafting	12/08/2022
Prop. Elevations, Drawing No. 20.128 A, Sheet No. A11	John Spiteri Design and Drafting	12/08/2022
Prop. Elevations, Drawing No. 20.128 A, Sheet No. A12	John Spiteri Design and Drafting	12/08/2022
Section, Drawing No. 20.128 A, Sheet No. A13	John Spiteri Design and Drafting	12/08/2022

BASIX Certificate No.	Dated	Received by Council
A446050	17 January 2022	07 March 2022

Amendment of Plans & Documentation

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

- a. The privacy screens located on the north-western and south-eastern sides of the proposed patio be reduced in height to 1.6m from the finished floor level.

Privacy screen/s must be constructed with either:

- Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
- Fixed lattice/slats with individual openings not more than 30mm wide;
- Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.

Heritage Conservation

3. A digital photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the *Environmental Planning and Assessment Act 1979* prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Digital Capture. One digital copies (DVD or USB) of the archival recording is to be submitted to Council for deposit in the Local History Collection of Randwick City Library and Council's own records incorporating the following:
- A PDF copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs;
 - Digital copies of the archival photographs in JPEG and TIFF formats.
4. The colours, materials and finishes of the external surfaces to the building, including paint colours and replacement terracotta roof tiles, are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building. Details of any changes to the proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979* prior to a construction certificate being issued for the development.
5. Details of the proposed paint scheme are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979* prior to a construction certificate being issued for the development. Unpainted surfaces, eg- brickwork/stonework are to remain unpainted, and no applied finishes are to be used.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate

compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2021*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

Section 7.12 Development Contributions

7. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$198,000.00 the following applicable monetary levy must be paid to Council: \$990.00.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Long Service Levy Payments

8. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

Security Deposits

9. The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for

remedying any defect on such public works, in accordance with Section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- \$600.00 - Damage / Civil Works Security Deposit

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

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

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

Sydney Water

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

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

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

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

Sydney Water's **Tap in™** online service is available at:
<https://www.sydneywater.com.au/tapin>

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

Street Tree Protection

11. In order to ensure retention of the *Eucalyptus haemastoma* (Scribbly Gum) that is located on Council's Oswald Street footpath, directly in front of this development site, as well as the larger *Eucalyptus microcorys* (Tallowwood) just to its west, in front of the adjoining property at no.7 in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must show their retention along with the position and diameter of their trunks and canopies in relation to the site and works.

- b. Prior to the commencement of any site works, their trunks must be physically protected by wrapping layers of geo-textile, underfelt, carpet, hessian or similar, from ground level to a height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- c. This protection shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
- d. The Principal Certifier must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of works, and prior to any Occupation Certificate.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2021*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Compliance with the Building Code of Australia

- 12. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2021*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Details of compliance with the BCA are to be included in the construction certificate application.

BASIX Requirements

- 13. In accordance with section 4.17(11) of the *Environmental Planning & Assessment Act 1979* and clause 97A of the *Environmental Planning & Assessment Regulation 2021*, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

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

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

Stormwater Drainage

- 14. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate:-

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- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);
 - b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
 - d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
 - e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifying Authority' (PCA), as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2021* and to provide reasonable levels of public health, safety and environmental amenity.

Certification, PCA & Other Requirements

15. Prior to the commencement of any building works, the following requirements must be complied with:

- a) a *Construction Certificate* must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the PCA and Council are to be notified accordingly; and

- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

16. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2021*, the requirements of the *Home Building Act 1989* must be complied with.

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

Dilapidation Reports

17. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person.

The dilapidation report shall include details of the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises and shall include relevant photographs of the structures, to the satisfaction of the *Principal Certifying Authority*.

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

Construction Noise & Vibration Management Plan

18. Noise and vibration emissions during the construction of the building and associated site works must not result in an unreasonable loss of amenity to nearby residents and the relevant requirements of the *Protection of the Environment Operations Act 1997* and NSW EPA Guidelines must be satisfied at all times.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

A *Construction Noise Management Plan*, prepared in accordance with the NSW EPA Construction Noise Guideline by a suitably qualified person, is to be implemented throughout the works. A copy of the strategy must be provided to the Principal Certifying Authority and Council prior to the commencement of works on site.

Construction Site Management Plan

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

- location and construction of protective fencing / hoardings to the perimeter of the site;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;

- provisions for public safety;
- dust control measures;
- site access location and construction;
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- provisions for temporary sanitary facilities;
- location and size of waste containers/bulk bins;
- details of proposed sediment and erosion control measures;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details.

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

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

Demolition Work Plan

20. Demolition Work must be carried out in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant work health and safety provisions and the following requirements:

- a) A Demolition Work Plan must be prepared for the demolition works which should be submitted to the Principal Certifying Authority (PCA), not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

- b) Any materials containing asbestos (including Fibro) must be safely removed and disposed of in accordance with the NSW Work Health and Safety Regulation 2017, SafeWork NSW Code of Practice for the Safe Removal of Asbestos, Protection of Environment Operations (Waste) Regulation 2014 and Council's Asbestos Policy.

Public Utilities

21. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2021* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Inspections during Construction

22. Building works are required to be inspected by the *Principal Certifying Authority*, in accordance with the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2021*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Site Signage

23. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifying Authority*,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

Removal of Asbestos Materials

25. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Work Health & Safety legislation and SafeWork NSW requirements
- Preparation and implementation of a *demolition work plan*, in accordance with AS 2601 (2001) – Demolition of structures; NSW Work Health and Safety Regulation 2017 and Randwick City Council's Asbestos Policy. A copy of the demolition work plan must be provided to Principal Certifying Authority and a copy must be kept on site and be made available for Council Officer upon request.
- A SafeWork NSW licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by

SafeWork NSW or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.

- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'Danger Asbestos Removal In Progress' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Details of the disposal of materials containing asbestos (including receipts) must be provided to the Principal Certifying Authority and Council.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifying Authority as soon as practicable after completion of the asbestos related works, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Public Safety & Site Management

26. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.

Temporary site fences are required to be constructed of cyclone wire fencing material and be structurally adequate, safe and constructed in a professional manner. The use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
 - b) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
 - c) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
 - d) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- e) Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, and details are to be included in the *Construction site Management Plan*.
- f) Site fencing, building materials, bulk bins/waste containers and other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

Support of Adjoining Land, Excavations & Retaining Walls

- 27. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2021*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
- 28. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Details of proposed retaining walls, shoring, piling or other measures are to be submitted to and approved by the Principal Certifying Authority.

- 29. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifying Authority*:
 - when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
 - when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
 - when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;

- as may be required by the *Principal Certifying Authority*.

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

Building Encroachments

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

Road/Asset Opening Permit

31. A *Road / Asset Opening Permit* must be obtained from Council prior to commencing any excavations or works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

Tree Management

32. Approval is granted for removal of the *Michelia figo* (Port Wine Magnolia) from the rear setback of this development site, along the western boundary, so as to allow for the rear extension (new concrete slab/patio) into this same area as shown, subject to suitable replacement planting being provided back in the garden/planter between the dwelling and rear boundary.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the '*Principal Certifying Authority*' issuing an '*Occupation Certificate*'.

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2021*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

33. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

BASIX Requirements

34. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2021*, a Certifying Authority must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

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

Council's Infrastructure, Vehicular Crossings, street verge

35. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
36. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2021*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Use of Premises

37. The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.

External Lighting

38. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

Plant & Equipment

39. Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

In this regard, the operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than

5dB(A) in accordance with relevant NSW Office of Environment & Heritage (EPA) Noise Control Guidelines.

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2021*, or other relevant legislation and Council's policies. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

- A1 The applicant is to meet all requirements of NSW Land Registry Services as applicable in regard to any required vertical or horizontal extension of the cross easements for support over the common party wall. Confirmation of these requirements should be obtained from a registered surveyor.

Development Application Report No. D57/22

Subject: 18/9-15 William Street, Randwick (DA/374/2022)


Executive Summary

Proposal:	Alterations and addition to an existing roof terrace comprising new open awning structure and landscape plantings.
Ward:	West Ward
Applicant:	Joe Barranco
Owner:	Joe Barranco
Cost of works:	\$79,380.40
Reason for referral:	Exceeds Building Height development standard by more than 10% and subject to the provisions under SEPP 65

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the Building Height development standard in Clause 4.3 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 374/2022 for alterations and addition to existing roof terrace comprising new open awning structure, plus landscape plantings, at No. 18/9-15 William Street Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (med density res) - DA/374/2022 - 18/9-15 William Street, RANDWICK NSW 2031 - DEV - Randwick City Council

D57/22

D57/22



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development contravenes the development standard for building height by more than 10% and is subject to the requirements under SEPP 65.

The proposal seeks development consent for alterations and addition to an existing roof terrace comprising a new open awning structure and landscape plantings

The key issues associated with the proposal relate to a variation to the maximum building height development standard under Randwick Local Environmental Plan (RLEP) 2012, visual impact and residential amenity impacts.

The applicant's written request seeking an exception to the Building Height development standard satisfactorily addresses those matters that are required to be demonstrated pursuant to Clause 4.6 of RLEP 2012. The variation to the maximum Building Height development standard is therefore supported.

The proposed structure is appropriately designed and setback from the building edge to minimise its visual impact on the surrounding area. The overall visual bulk and scale of the building is consistent with the existing built form character of the area.

The proposal will not result in any unreasonable amenity impacts to the adjoining residential properties in terms of visual or acoustic privacy or overshadowing.

The proposal is therefore recommended for approval.

2. Site Description and Locality

The subject site is known as 9-15 William Street Randwick and is legally described as Lot 18 in SP 77504. The site is 1,698.3m², is regular in shape and has a 36m frontage to William Street to the south. The site is occupied by three residential flat buildings (RFBs) with interconnectivity through the centre of the site. This application relates to Unit 18 on the top floor of the southern building module. The subject roof terrace is accessed internally from Unit 18 via a stairwell. An extract of the SP77504 shows the terrace is on title (pt18). The Applicant submitted a copy of the owner's consent with the common seal affixed for SP77504. The existing roof terrace is occupied by a gazebo structure and timber decks containing outdoor furniture, screens and planters.

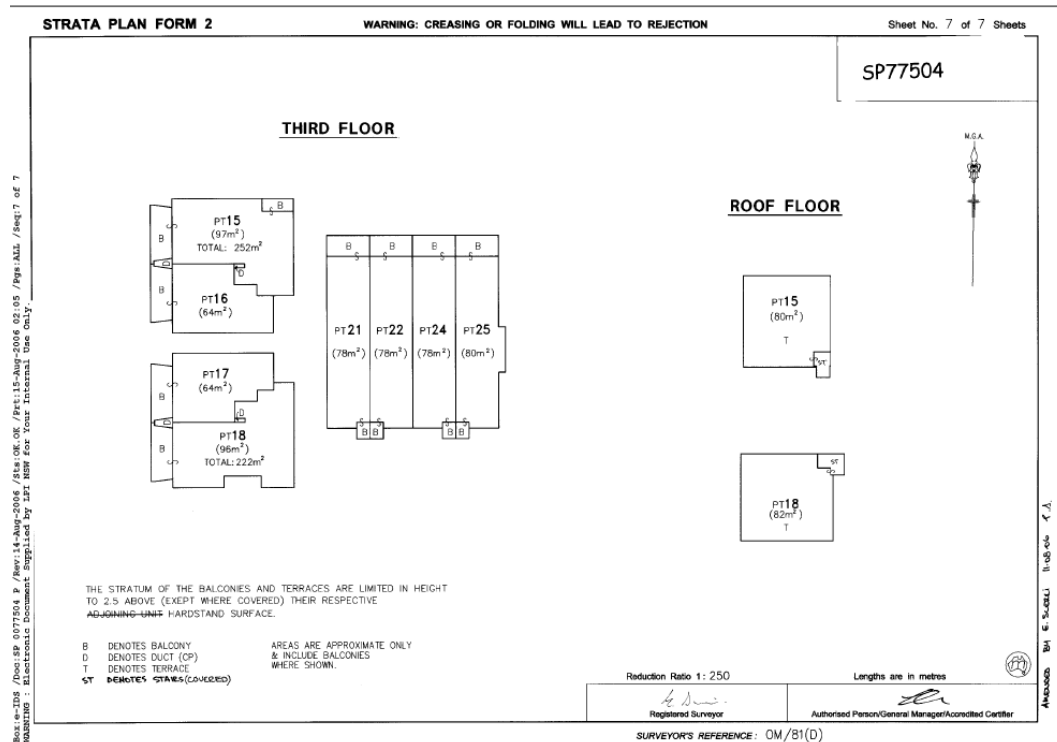


Figure 1 – Extract of SP77504 showing the terrace at the roof floor on title (Pt 18)



Figure 2 - Existing site viewed from William Street

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Figure 3 - Stair access from inside Unit 18 to the existing terrace



Figure 4 – Existing gazebo structure and deck on the roof terrace



Figure 5 - View from the southern part of the terrace showing the RFB on the adjoining property to the south at 17 William Street



Figure 6 - View from the southern part of the terrace showing the balconies at the front of the RFB at 17 William Street



Figure 7 - View looking west towards Randwick Racecourse



Figure 8 – View looking north showing the existing roof terrace on the northern building module on the site.

3. Relevant history

On 17 December 2004, Council approved demolition of the existing buildings and construction of a 4 storey multi-unit housing development containing for 25 dwellings and basement parking for 38 vehicles (DA/646/2004). The original planning report pertaining to the construction of the existing building notes *“the height to the underside of the top floor ceiling of Buildings A and B fronting*

William Street is RL 49.00 and to the top of the balcony (equivalent in effect to a parapet) at the front of Buildings A and B is RL 50.06.”

On 10 June 2021, the RLPP refused a Development Application (DA) for alterations and additions to the existing roof terrace, including a new enclosed room and addition of roof to the terrace area (DA/10/2021). The reasons for refusal primarily related to the variations to the built form, density and amenity requirements under SEPP 65, and the departures to the FSR and Building Height development standards under RLEP 2012.

On 1 December 2021, the applicant lodged a Section 8.2 Review application with amendments to the design of the proposal. However, the review application was withdrawn by the Applicant because the prescribed statutory review period had lapsed, and Council was therefore unable to determine the application.

4. Proposal

The proposal seeks development consent for alterations and addition to an existing roof terrace comprising a new open awning structure and landscape plantings. Refer to **Figures 9 to 11**.

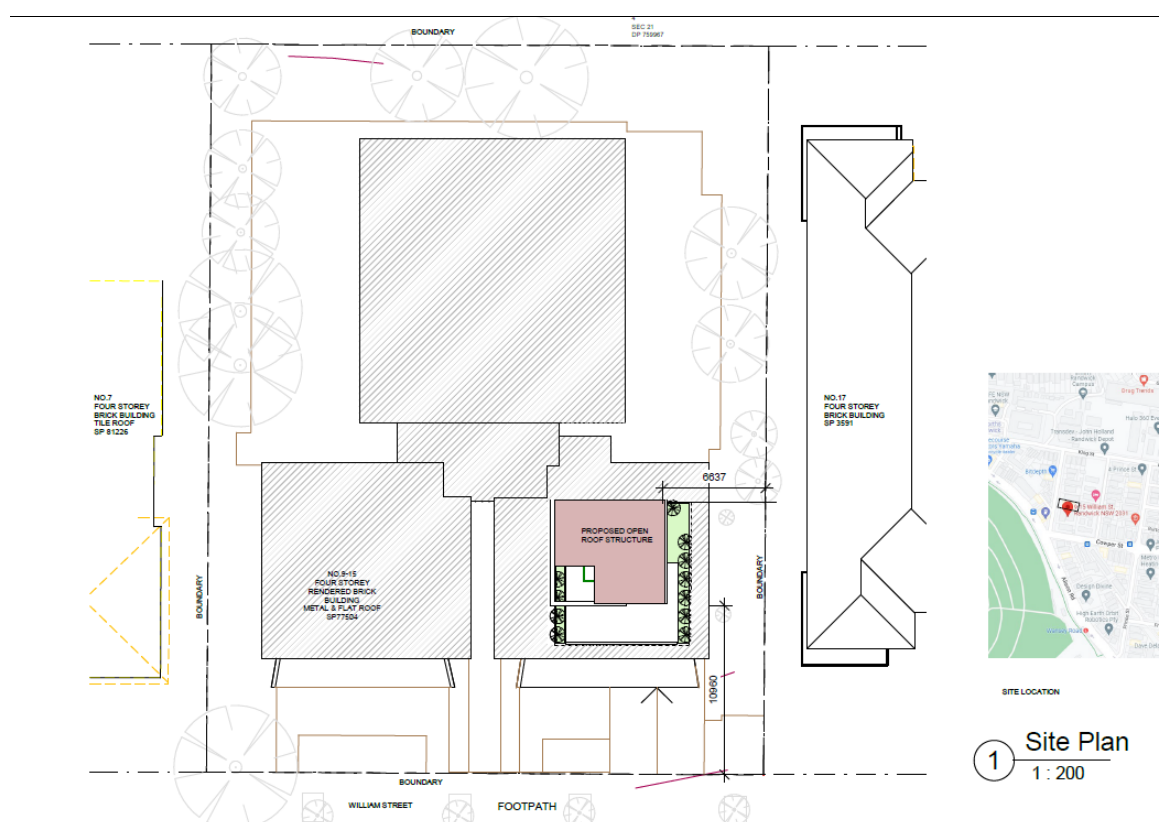


Figure 9 – Site Plan

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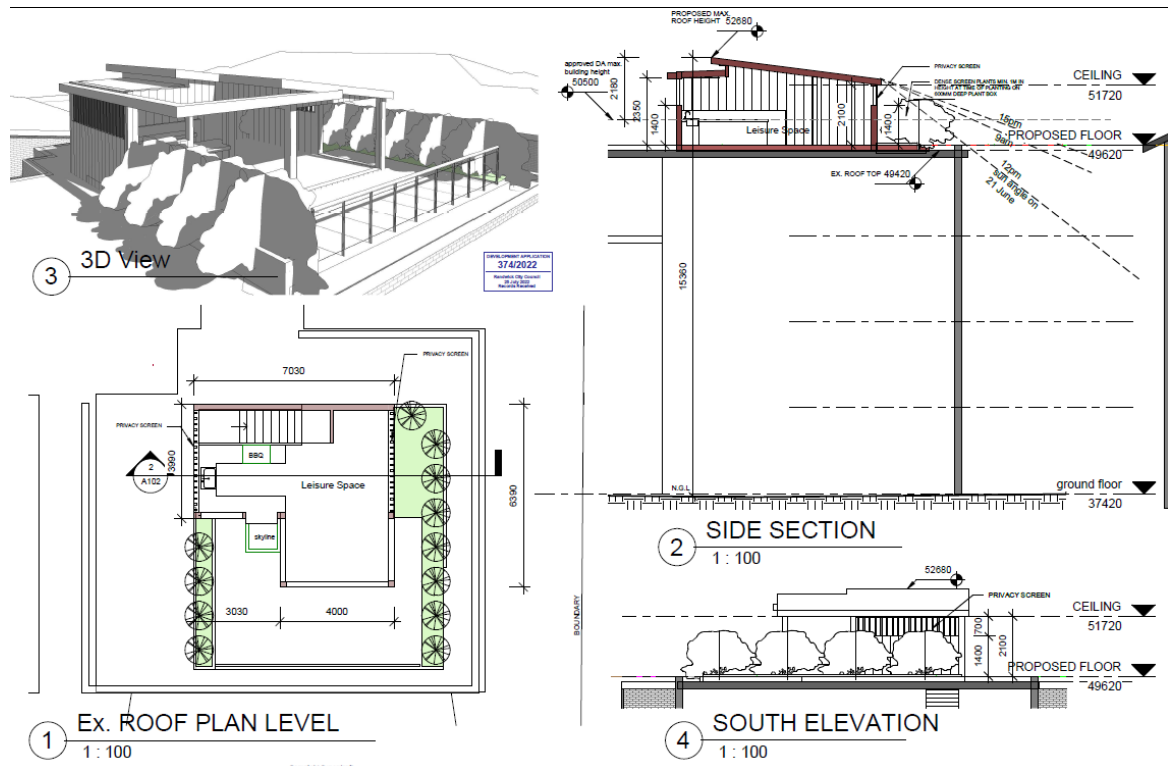


Figure 10 – Plans of the proposed development

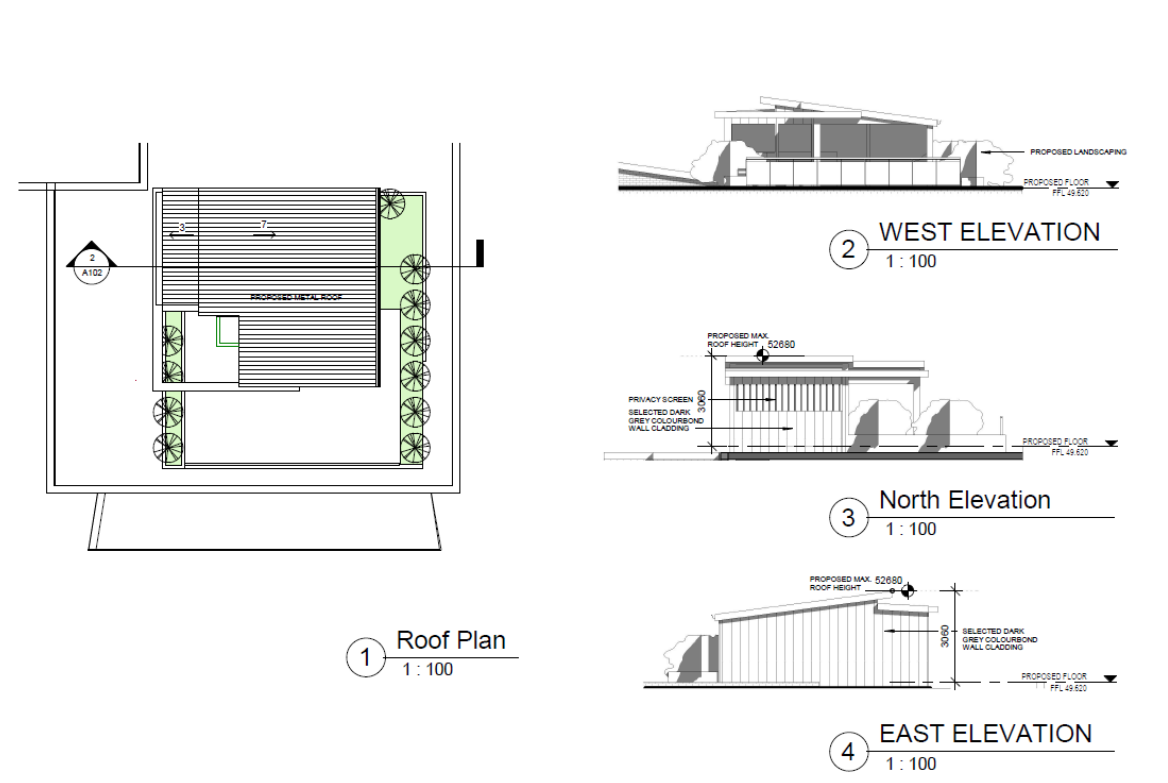


Figure 11 – Plans of the proposed development

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Participation Plan 2019. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Developments

The existing RFB on the site contains 25 dwellings and is 4 storeys in height and is therefore subject to *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development (SEPP 65)*. The proposed works are confined to a single apartment on the roof of the existing building and does not represent a significant departure from the environmental functionality as assessed within the original application DA/646/2004. Therefore, the proposal has not been referred to the Design Excellence Panel. The visual bulk and scale of the building is consistent with the existing built form character of the area (refer to **Section 9.1** of this report). The proposal is consistent with the built form design quality principles under SEPP 65. There are no relevant requirements applicable to the proposal in the Apartment Design Guide (ADG).

6.2. Randwick Local Environmental Plan (RLEP) 2012

The site is zoned R3 Medium Density Residential under RLEP 2012, and the proposal is permissible with consent.

The proposal is consistent with the specific objective of the R3 zone in that the proposed development will provide housing within a medium density residential environment.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.9:1 (1,528.47m ²)	Existing = 1.24:1 (2,105.89m ²)	Same as existing*
Cl 4.3: Building height (max)	12m	15.26m**	No Refer to the discussion under Section 7 below.

* Despite the non-compliance, there will be no change to the existing FSR of the building because the proposed alterations and addition to the existing roof terrace, comprising a new open awning structure, is not included in the calculation of gross floor area (GFA).

The building height is measured from the top of the proposed awning roof at RL52.68 to the ground floor at RL37.42 as shown on Side Section Plan submitted with the application (refer to **Figure 10). The Survey Plan submitted with the application shows the existing ground levels on the southern side of the building as being RL37.28 – RL37.58. The ground floor level used by the applicant is similar level to the existing ground levels adjacent to the building footprint as shown on the Survey Plan. The extrapolation methodology used to determine the building height is reasonable in this circumstance and is supported in NSW Land and Environment Court caselaw.

6.2.1. Clause 4.6 - Exceptions to development standards

The non-compliance with the development standard is discussed in **Section 7** below.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.3: Building height (max)	12m	15.26m	3.26m	27%

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

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

1. *The applicant's written request has adequately 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's written request has adequately 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 adequately 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.
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

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(4) have been satisfied for each contravention of a development standard.

7.1. Exception to the Building Height development standard (Clause 4.3)

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

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

The applicant's written request seeks to justify the contravention of the Building height 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 Building Height 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 proposed development supports the economic and orderly development of land, as intended by the RLEP2012 and RDCP13 controls. The existing RFB has an approved height non-compliance, with the approval requiring a maximum height of no more than RL 50.5 AHD (DA/646/2004). The proposed open awning structure is permitted in the R3 Medium Density residential zoning of the site, and is consistent with the intent for development on the subject site.

It is considered that the proposed built form represents a suitable development within a medium density residential context. It is noted that the proposed awning structure is proposed atop an existing roof terrace which has the ability to contain haphazardly placed temporary structures which can be readily visible in the streetscape along William Street and from Alison Road.

In contrast, the proposed awning structure provides for a cohesive and long-term weatherproof structure that has been designed to be a subtle and modest element which is barely evident in the streetscape of William Street and from further afield.

The recessed nature of the awning associated with the height variation, in association with perimeter planting, soften and screen the potential visibility of the structure when viewed from a substantial distance to the south-west. The proposed height variation thereby provides for a more orderly and effective covering that avoids potential visual impacts that are currently associated with temporary structures. The proposed height variation will not generate any incompatibility with the scale of the existing flat building due to its recessed siting and lightweight nature, as there is virtually no perceptible change to the existing built form.

The proposed structure associated with the height variation will also not appear as out of scale with the surrounding locality noting the compatibility of the structure with the surrounding 4-5 storey buildings. In such context, it is considered that the proposed height variation will not generate any inconsistency with the desired future character of the locality.

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

The subject site does not adjoin any heritage item, conservation area or special character area, with the proposed alteration and additions to maintain the character of the existing built form within the streetscape.

- (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 impact of the proposed alterations and additions associated with the height variation will not be detrimental to the amenity of the of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views, and has been assessed above at Justification for Contravention of the Development Standard - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Assessing officer's comment:

The proposed structure will not be readily visible from the street and there will be no discernible change to the overall bulk and scale of the building within the streetscape. The proposal would not result in any unreasonable amenity impacts to the adjoining properties (refer to **Section 9.1** of this report). The applicant's written request has adequately demonstrated that compliance with the Building Height development standard is unreasonable or unnecessary in the circumstances of the case.

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

The Applicant seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the Building height development standard as follows:

- *No unacceptable adverse impacts on neighbouring development on William Street or to Alison Road, given that the proposal will not result in any overshadowing, visual or acoustic privacy impacts, visual bulk and scale impacts, or view loss.*
- *The proposed long-term nature of the awning also achieves positive streetscape and amenity outcomes when compared with that generated by the existing unroofed terrace and associated temporary structures.*
- *The height non-compliance will not result in adverse amenity impacts to neighbouring properties in regard to overshadowing. Given the recessed nature of the proposed awning and its modest height, bulk, and scale associated with open awning structure, solar access is maintained to the properties to adjoining properties. The accompanying 2D solar analysis confirms that there will be no additional shadow impacts that would be discernible. Any additional shadow impacts would be inconsequential.*
- *Visual and acoustic privacy impacts to adjoining neighbours has also been carefully considered, with the open awning structure proposed with privacy screens, and the roof terrace proposed with landscape screen plantings to perimeters, that prevent downward overlooking, while reducing the trafficable area. The proposed height variation associated with the awning structure and perimeter planting actually reduces existing opportunities of overlooking as the recessed siting of the awning and planters prevent existing downward and cross overlooking to the adjoining windows and balcony areas of the units to the south.*
- *No views are affected by the proposed height variation.*
- *There are no internal amenity grounds that would determine that the additional height should not be granted, with the proposal retaining compliance with the RDCP2013 and SEPP 65/ ADG.*
- *It is considered that an environmental benefit has been achieved from partial replacement of an existing temporary structures with poor amenity, with one that achieves high internal amenity without compromising the amenity of neighbouring properties. The combination of the internal and external amenity factors demonstrates that there are sufficient environmental grounds to permit the height variation in this instance.*

Assessing officer's comment:

The overall bulk and scale of the building is consistent with the existing built form character of the area. The proposal will not result in any unreasonable amenity impacts to the adjoining properties. The applicant's written request has provided sufficient environmental planning grounds to justify the variation to the Building Height development standard.

3. Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Building Height standard and R3 zone is provided below:

Assessment against objectives of floor space ratio standard

For the reasons outlined in the applicant's written request, the development is inconsistent with the objectives of the Building Height standard.

Assessment against objectives of the R3 zone

The objectives of 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 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.*

Assessing officer's comment: The proposal will continue to provide housing within a medium residential environment. The development is therefore consistent with the objectives of the Building Height standard and the R3 zone. Therefore, the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

The proposed second floor addition fails to achieve a suitable urban design outcome and there is no public benefit.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent can be granted for a development that contravenes the Building Height development standard.

8. Development control plans and policies**8.1. Randwick Comprehensive DCP 2013**

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Building Height

A maximum Building Height development standard of 12m applies to the site under the RLEP 2012. The existing RFB has a maximum height of 13m, which exceeds the Building Height development standard. The roof of the proposed structure is at RL52.68. The proposed development has a height of 15.26m, equating to a variation of 27%. The application is accompanied by a written request seeking an exception to a development standard under Clause 4.6 of RLEP 2012. The applicant's justification for the variation to the Building Height development standard is well founded. The written request satisfactorily addresses those matters that are required to be demonstrated pursuant to Clause 4.6 of RLEP 2012. Refer to **Section 7** of this report.

Visual Impact

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The proposed roof will be 3.06m above the existing terrace (roof) level and setback approximately 3m to the southern edge of the building. The setback dimensions are illustrated in **Figure 12**. The proposed structure will be centrally located within the floor plate and therefore it will not be readily visible when viewed from William Street. Refer to **Figures 13** and **14**.

However, the proposed structure will be visible from the upper level northern facing windows and balconies of the RFB at 17 William Street adjoining to the south. The structure will consist of lightweight materials including colourbond wall cladding, privacy screens and a metal skillion roof to assist in reducing its visual impact to an acceptable level. The proposal is appropriate in terms of its visual impact on the surrounding area.

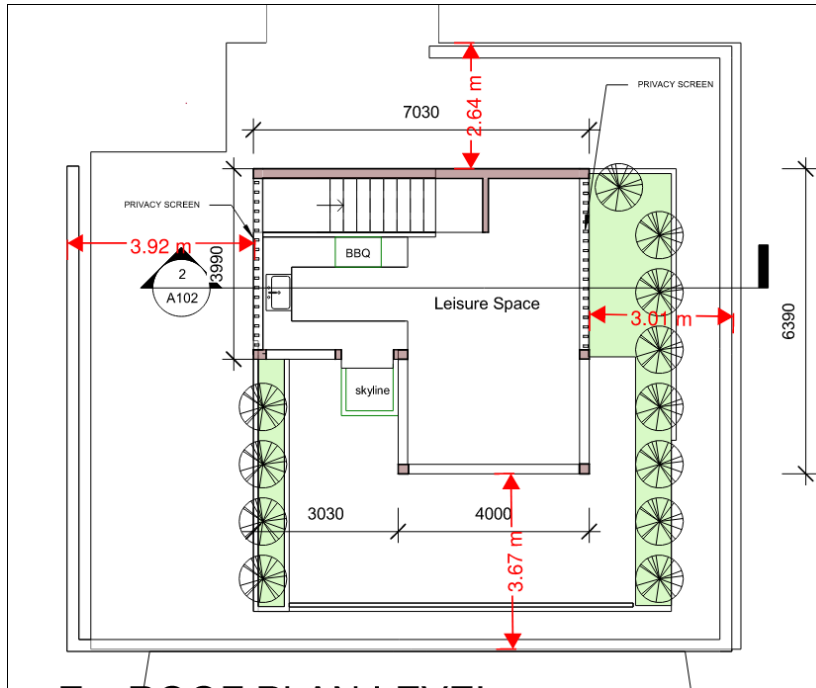


Figure 12 – Proposed floor plan showing dimensions and setbacks to the building edge



Figure 13 – View of the proposed structure from William Street



Figure 14 – View of the proposed structure from William Street with plantings

Overshadowing

The shadow diagrams submitted with the application show at 9:00am during the winter solstice the proposed structure will result in some minor additional overshadowing to the balcony on the top floor of the RFB on the adjoining property to the south at 17 William Street (refer to **Figure 15**). However, the additional shadow affecting the balcony is relatively short lived, being less than one hour, as it tracts further east throughout the day. The additional shadow on the northern elevation does not impact the existing window openings, except for an apartment at the eastern end of the third level at 4:00pm (refer to **Figure 16**). However, the subject windows will continue to receive a minimum 3 hours direct sunlight at the winter solstice in accordance with Council’s solar access requirements and therefore it is not unreasonable. The proposal is therefore acceptable in terms of overshadowing.

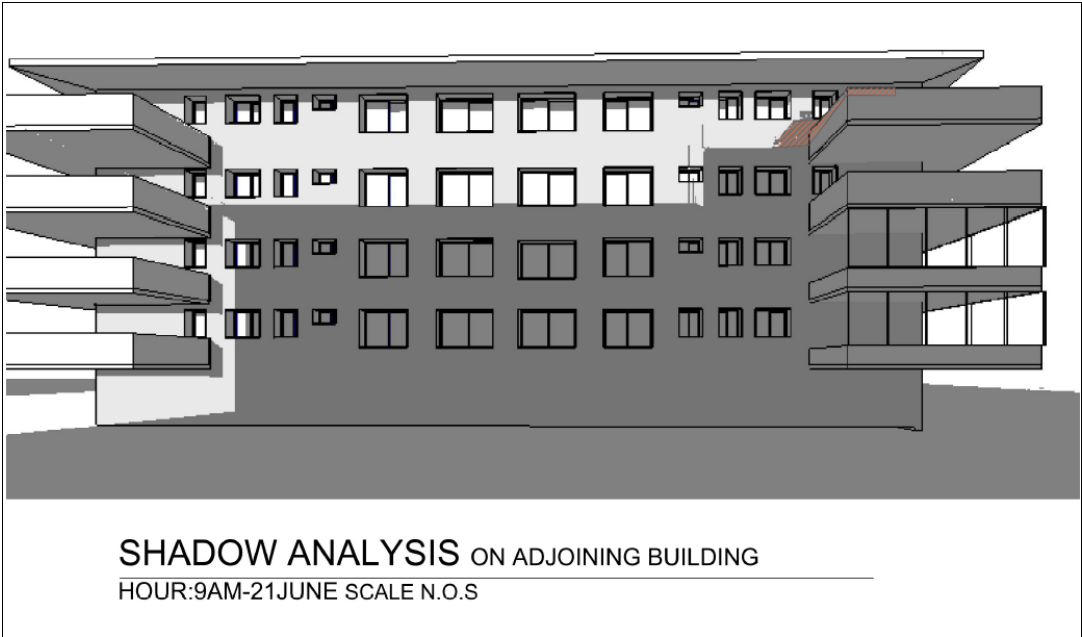


Figure 15 – Additional shadow cast to the south at 9:00am (hatched in brown)

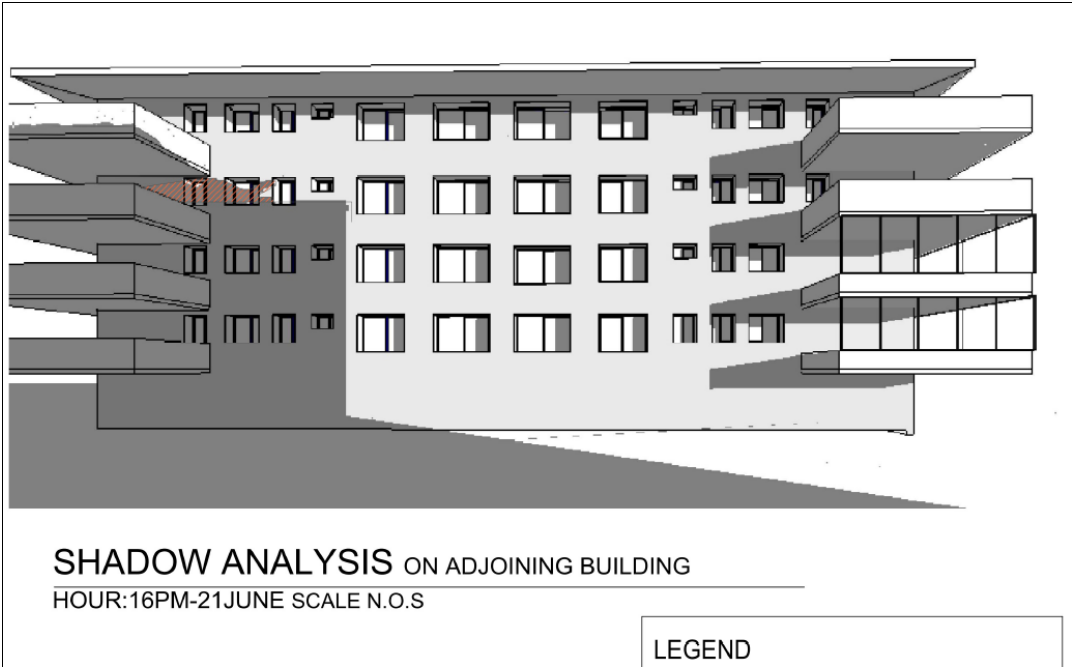


Figure 16 – Additional shadow cast to the south at 4:00pm (hatched in brown)

Visual Privacy

The southern edge of the proposed terrace will be approximately 9m from the northern elevation of the RFB to the south. The visual privacy design criteria under the Apartment Design Guide (ADG)

recommend a 6m separation between balconies and habitable rooms for RFBs up to 4 storeys to ensure visual privacy is achieved. The proposal complies with this requirement.

There will be no privacy impacts to the east as views are to the roof above the eastern building module on the subject site. In any event the views will be mitigated by the proposed wall along the eastern elevation of the structure. The northern edge of the proposed terrace is approximately 9m to the existing terrace on top of the northern RFB on the subject site. This is an existing situation and the separation is deemed acceptable to minimise visual privacy impacts within the site.

Notwithstanding the generous separation to the adjoining properties described above, the proposal includes a combination of privacy screens and landscape planters along the side of the terrace to mitigate any potential privacy impacts. Subject to the implementation of these privacy measures, the proposal will not result in any unreasonable privacy impacts to the surrounding area. A condition to this effect is included in the recommended development consent.

Acoustic Privacy

The proposed terrace will have a useable area of approximately 56m² and will be improved as a result of the proposed development, which would lead to greater use of the space and therefore could potentially accommodate large groups of people for entertainment purposes and result in potential amenity impact to the neighbouring properties. For these reasons, it is considered appropriate to impose relevant conditions to restrict the use of the roof terrace area.

10. Conclusion

That the application for alterations and addition to an existing roof terrace comprising new open awning structure and landscape plantings be approved (subject to conditions) for the following reasons:

- The applicant's written request seeking an exception to the Building Height development standard under Clause 4.3 of Randwick Local Environmental Plan 2012 satisfactorily addresses those matters that are required to be demonstrated pursuant to Clause 4.6 of Randwick Local Environmental Plan 2012.
- The proposal is consistent with the relevant objectives and requirements contained within the Randwick Local Environmental Plan 2012, and the relevant requirements of the Randwick Development Control Plan 2013.
- The proposal is consistent with the specific objectives of the R3 zone under Randwick Local Environmental Plan 2012 in that it will continue to provide for the housing needs of the community.
- The overall visual bulk and scale of the building is consistent with the existing built form character of the area.
- The proposed development will not result in any unreasonable amenity impacts to the surrounding area.

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

RANDWICK LEP 2012 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 variation request has been prepared to accompany the Statement of Environmental Effects which is seeking consent for alterations and additions to the existing roof terrace of unit 18, comprising new open awning structure, plus perimeter landscape plantings.

Clause 4.6 of the Randwick LEP 2012 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement from *Initial Action Pty Ltd v Woollahra Council* [2017] NSWLEC 1734.

Clause 4.6 Exceptions to development standards

(1) 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 for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3 of the RLEP2012 - maximum height of 12m, demonstrated on the LEP map in Figure 1 below.

The proposed maximum height of 15.36m above existing ground level represents a variation of 2.18m (17.4%) from the approved height (DA/10/2021) of 13.08m (RL50500 AHD), illustrated in Figure 2.

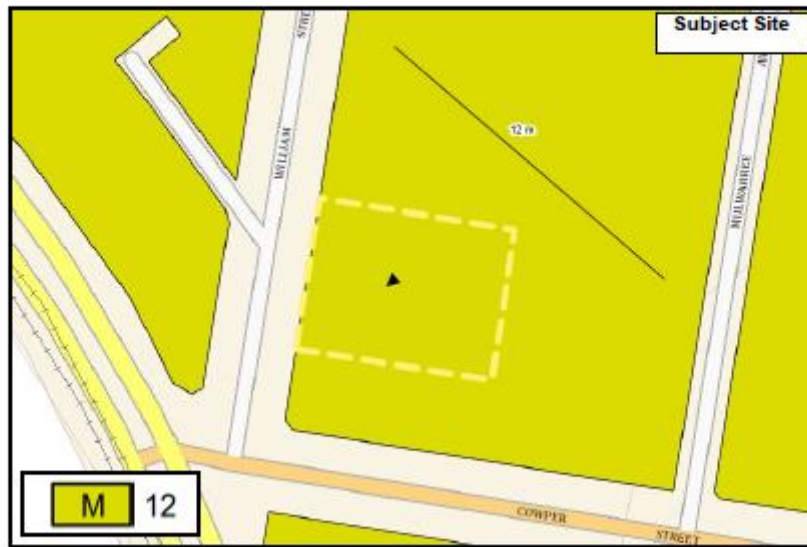


Figure 1: Building Height Map

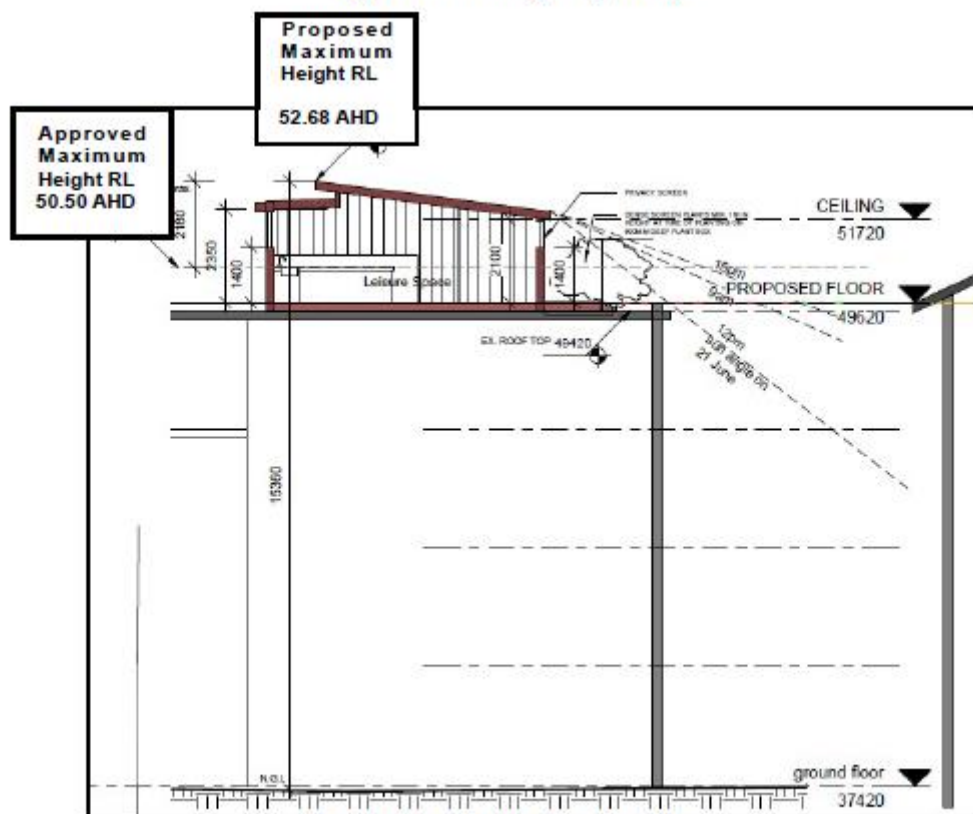


Figure 2: Excerpt Section Plan

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Justification for Contravention of the Development Standard

This written 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:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Assessment: It is considered that strict compliance with the development standard for height on the site is unreasonable and unnecessary in the circumstances for the following reasons:

- The proposal complies with the objectives of the development standard and the R3 Medium Density Residential zone, indicated in the assessment at Table 1. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest given it is consistent with the objectives for development within the zone.
- Notwithstanding the numeric departure, the proposed alterations and additions will have a height, bulk and scale compatible with the scale of the existing built form and that of the surrounding local area, and the height non-compliance will not have an adverse impact to surrounding properties or the streetscape in relation to significant additional overshadowing, visual impact from the bulk and scale, visual or acoustic privacy impacts, or view loss. Furthermore, the proposed alterations and additions provide for improved/ high-quality internal amenity to the existing Unit 18, by providing useable private open space that offers protection from weather.

Overshadowing

- As illustrated on the accompanying Shadow Diagrams, the proposal will not have an adverse impact to solar access.
- The amended design of the open awning structure, with reduced height and increased setback from the southern side of the building has reduced the shadow impact to the extent that additional shadowing is virtually non-existent or indiscernible. The shadow analysis confirms that there is no meaningful additional overshadowing impacts to adjoining neighbours.

Visual and Acoustic Privacy

- The existing terrace has trafficable areas that extend to the perimeter of the terrace and allows for direct overlooking to the southern neighbouring units at 17 William Street. The proposed landscaping along the southern side of the terrace will remove the opportunity for overlooking, thereby representing an improved amenity outcome for the north-facing windows and balconies for 17 William Street.
- The proposal covers a substantial proportion of the uncovered terrace and also reduces the trafficable area through the introduction of landscaping along the southern and northern sides. These amendments thereby reduce potential acoustic impacts when compared with the existing terrace, from the provision of privacy screens and 1.4m high walls of the proposed awning structure, plus provision of landscaped perimeter and reduction of trafficable area.

Visual Impact from Bulk and Scale

- As described in the accompanying plans, the amended design has reduced the height of the proposed awning structure alterations and additions. Furthermore, the open awning structure has been recessed so that it is now indiscernible from the public domain along both sides of William Street. As shown in the updated Photomontages and 3D View, the built form has been purposely setback to minimise its perception from the public domain (Figures 3, 4, 5 & 6).
- The proposed open awning structure when viewed from the streetscape will maintain the existing development built form consistent with existing developments in the surrounding local area, being largely indiscernible from the streetscape, and less of a visual bulk impact than the existing temporary structures.

Subject Unit



Figure 3: View west Photomontage of proposed open awning structure, illustrating indiscernible from William Street

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Figure 4: Photomontage illustrating reduced height and proposed perimeter landscape plantings, demonstrating the proposed open awning structure is largely indiscernible from the streetscape

As demonstrated in the Figure 5 below, the proposal will present as a four and five-storey built form when viewed from the public domain and the William Street Streetscape.

Figure 5: Photomontage illustrating recessed and largely indiscernible proposed open awning



structure

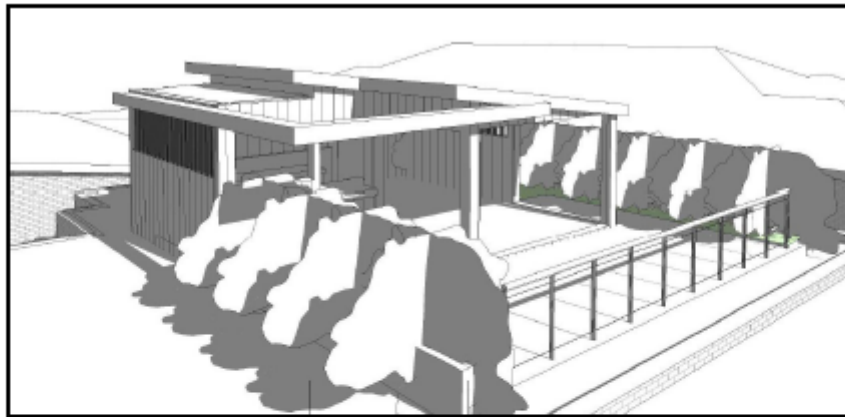


Figure 6: Illustrating amended design with awning structure recessed from the levels below, being indiscernible from the streetscape, mitigating adverse impacts on neighbours in relation to visual bulk, privacy, and overshadowing

The additional built form will not generate any adverse or uncharacteristic visual bulk or streetscape impacts from any surrounding vantage points, noting that the site is within an area that includes four and five-storey flat buildings. The proposed partial five-storey element associated with this revised proposal will thereby not be visually prominent nor incompatible in its context.

Furthermore, the recessed open awning structure with landscape perimeter further minimises the perception of bulk and scale, and diminishes the visual impact of the proposed open awning structure. Landscaping proposed along the southern side setback will screen any perception of the new built form when viewed from further afield, such as the western side of Alison Road alongside the Racecourse (Figures 6 & 17).

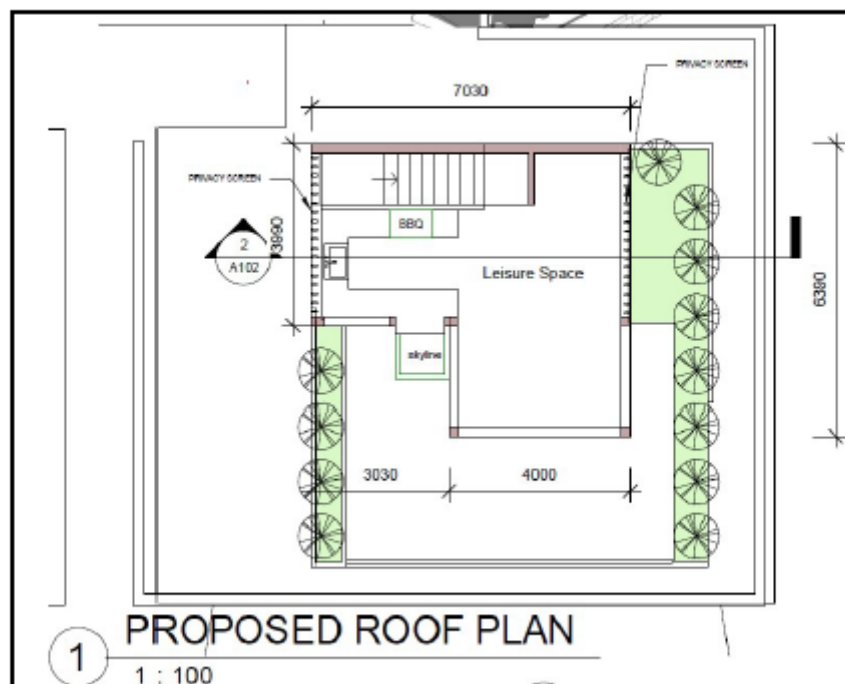


Figure 7: Excerpt Roof Plan illustrating recessed awning structure

View Impacts

- There are no iconic views in the vicinity of the site.
- Given the steep topography of the subject site and surrounding landscape, with the proposed open awning structure largely indiscernible, an impact to views of adjoining neighbours or the public domain is not expected.

Amenity

- There are no internal amenity grounds that would determine that the open awning structure should not be approved. The amenity of the existing terrace is low due exposure to wind, sun, heat, and wet weather. The renovation will provide increased protection from the weather, so that the residents of Unit 18 can enjoy usable private open space with protection from weather, beyond that offered by the existing temporary structures.
- No change to the existing compliance with the key amenity criteria contained within the SEPP 65/ Apartment Design Guide and *Randwick Comprehensive Development Control Plan 2013* (RDCP2013) for Medium Density Residential development.

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

Consistency with the objectives of the height standard in the LEP	
Objectives	Assessment
4.3(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,	<p>Complies</p> <p>The proposed development supports the economic and orderly development of land, as intended by the RLEP2012 and RDCP13 controls.</p> <p>The existing RFB has an approved height non-compliance, with the approval requiring a maximum height of no more than RL 50.5 AHD (DA/646/2004).</p> <p>The proposed open awning structure is permitted in the R3 Medium Density residential zoning of the site, and is consistent with the intent for development on the subject site. It is considered that the proposed built form represents a suitable development within a medium density residential context.</p> <p>It is noted that the proposed awning structure is proposed atop an existing roof terrace which has the ability to contain haphazardly placed temporary structures which can be readily visible in the streetscape along William Street and from Alison Road.</p> <p>In contrast, the proposed awning structure provides for a cohesive and long-term weatherproof structure that has been designed to be a subtle and modest element which is barely evident in the streetscape of William Street and from further afield. The recessed nature of the awning associated with the height variation, in association with perimeter planting, soften and screen the</p>

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	<p>potential visibility of the structure when viewed from a substantial distance to the south-west.</p> <p>The proposed height variation thereby provides for a more orderly and effective covering that avoids potential visual impacts that are currently associated with temporary structures.</p> <p>The proposed height variation will not generate any incompatibility with the scale of the existing flat building due to its recessed siting and lightweight nature, as there is virtually no perceptible change to the existing built form. The proposed structure associated with the height variation will also not appear as out of scale with the surrounding locality noting the compatibility of the structure with the surrounding 4-5 storey buildings.</p> <p>In such context, it is considered that the proposed height variation will not generate any inconsistency with the desired future character of the locality.</p>
<p><i>4.3(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,</i></p>	<p>Complies</p> <p>The subject site does not adjoin any heritage item, conservation area or special character area, with the proposed alteration and additions to maintain the character of the existing built form within the streetscape.</p>

<p>4.3(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</p>	<p>Complies</p> <p>The impact of the proposed alterations and additions associated with the height variation will not be detrimental to the amenity of the of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views, and has been assessed above at Justification for Contravention of the Development Standard - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.</p>
Consistency with the objectives of the R3 Medium Density 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>Complies</p> <p>The proposed alterations and additions to an existing RFB is permissible in the R3 Medium Density zone.</p> <p>The proposed alterations and additions provide for high-quality internal amenity to the existing Unit 18, by providing usable private open space that offers protection from weather, without adverse amenity impacts to adjoining neighbours or the streetscape.</p> <p>The proposed height variation is therefore not considered to generate any inconsistency with the zone objectives.</p>

Based on the above assessment, it is considered that strict compliance with the LEP height standard is unreasonable and unnecessary in this instance.

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

Assessment: It is considered that there are sufficient environmental planning grounds to justify varying the building height development standard, which include:

- No unacceptable adverse impacts on neighbouring development on William Street or to Alison Road, given that the proposal will not result in any overshadowing, visual or acoustic privacy impacts, visual bulk and scale impacts, or view loss.
- The proposed long-term nature of the awning also achieves positive streetscape and amenity outcomes when compared with that generated by the existing unroofed terrace and associated temporary structures.
- The height non-compliance will not result in adverse amenity impacts to neighbouring properties in regard to overshadowing. Given the recessed nature of the proposed awning and its modest height, bulk, and scale associated with open awning structure, solar access is maintained to the properties to adjoining properties. The accompanying 2D solar analysis confirms that there will be no additional shadow impacts that would be discernible. Any additional shadow impacts would be inconsequential.
- Visual and acoustic privacy impacts to adjoining neighbours has also been carefully considered, with the open awning structure proposed with privacy screens, and the roof terrace proposed with landscape screen plantings to perimeters, that prevent downward overlooking, while reducing the trafficable area. The proposed height variation associated with the awning structure and perimeter planting actually reduces existing opportunities of overlooking as the recessed siting of the awning and planters prevent existing downward and cross overlooking to the adjoining windows and balcony areas of the units to the south.
- No views are affected by the proposed height variation.
- There are no internal amenity grounds that would determine that the additional height should not be granted, with the proposal retaining compliance with the RDCP2013 and SEPP 65/ ADG.
- It is considered that an environmental benefit has been achieved from partial replacement of an existing temporary structures with poor amenity, with one that achieves high internal amenity without compromising the amenity of neighbouring properties. The combination of the internal and external amenity factors demonstrates that there are sufficient environmental grounds to permit the height variation in this instance.

Based on the above points, it is considered that there are sufficient environmental planning grounds to permit the height variation in this instance.

Other Matters for Consideration

4(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Assessment: The above assessment demonstrates that the proposed height satisfies the objectives of the height standard and the R3 Medium Density zone.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the minor height variation.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the height control.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning

Assessment: The proposed height variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The proposed height allows for achievement of a compatible building envelope without creating a development with overbearing height, bulk or scale and without compromising the desired future character of the area.

The proposed height is therefore consistent with the State and Regional Policies, particularly urban consolidation principles which seek to provide additional height and density near transport and established services.

(b) the public benefit of maintaining the development standard

Assessment: There is no public benefit in maintaining the height standard given the limited amenity impacts associated with the development and the positive amenity outcome that would arise from the proposed open awning structure on the subject site.

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Assessment: There are not considered to be any additional matters to consider beyond those discussed above.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at Unit 18 / 9-15 William Street, Randwick and is requested to be looked upon favourably by the consent authority.

Appendix 2 - DCP Compliance Table

These requirements are provided in accordance with the ADG, which takes precedence over the RDCP for this development standard (refer to ADG assessment in Appendix 3). The non-relevant elements of the DCP have been omitted from the table as the application is for rooftop development only, and not a new Residential Flat Building.

4.1 Section C2: Medium Density Housing

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
2. Site Planning			
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.	The existing terrace has direct access from within the subject unit with good amenity in terms of solar access. The privacy impacts are acceptable (refer to Section 9.1 of this report).	Yes
	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.	The existing terrace has a useable area of 56m ² .	Yes
3. Building Envelope			
3.1	Floor space ratio		
	0.9:1 (1528.47m ²)	1.24:1 (2,105.89m ²) There will be no change to the existing FSR as a result of the proposal.	No
3.2	Building height		
	12m	15.26m Refer to Section 7 of this report.	No
4.2	Roof design		

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>	The design and layout of the proposed roof terrace will minimise potential visual and acoustic privacy impacts to an acceptable level.	Yes
4.4	External wall height and ceiling height		
	(ii) 10.5m maximum	There will be no change to the wall height of the existing building.	Yes
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Not Applicable	Yes
5.	Amenity		
5.1	Solar access and overshadowing		
	Solar access for surrounding development		
	<p>(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.</p> <p>(ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June.</p> <p>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</p>	The proposal is acceptable in terms of overshadowing. Refer to Section 9.1 of this report.	Yes
5.3	Visual privacy		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.</p> <p>(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences.</p> <p>(iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	Refer to Section 9.1 of this report.	To be conditioned.
5.4	Acoustic privacy		
	<p>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</p> <p>(ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such as:</p> <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	Refer to Section 9.1 of this report.	To be conditioned.

Responsible officer: Thomas Mithen, Environmental Planner

File Reference: DA/374/2022

Development Consent Conditions (Medium density residential)



D57/22

Folder /DA No:	DA/374/2022
Property:	18/9-15 William Street, RANDWICK NSW 2031
Proposal:	Alterations and addition to existing roof terrace comprising new open awning structure, plus landscape plantings.
Recommendation:	Approval

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated
A101 Site Plan	Superdraft	18 August 2022
A102 Floor Plan Rev 2	Superdraft	10 October 2021
A106 Roof Plan & Elevations	Superdraft	18 August 2022

Amendment of Plans & Documentation

- The approved plans and documents must be amended in accordance with the following requirements:
 - Privacy screens having a height of 1.6m (measured above finished floor level) shall be provided to the northern and southern sides of the awning structure.

Privacy screen/s must be constructed with either:

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

Detailed plans of the privacy screens must be submitted to Council's Manager Development Assessment for approval.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

External Colours, Materials & Finishes

4. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

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

Long Service Levy Payments

5. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

Sydney Water Requirements

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

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

*The Sydney Water **Tap in™** online service replaces the Quick Check Agents as of 30 November 2015*

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

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

Sydney Water's **Tap in™** online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Compliance with the Building Code of Australia & Relevant Standards

7. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifier', as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

Certification and Building Inspection Requirements

8. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - c) a *principal contractor* must be appointed for the building work and the requirements of the *Home Building Act 1989* must be satisfied accordingly; and
 - d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
 - e) at least two days' notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

9. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, the relevant requirements of the *Home Building Act 1989* must be complied with.

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

Construction Site Management Plan

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

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

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

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

Demolition Work Plan

11. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/work health and safety requirements.

The Demolition Work Plan must be submitted to the Principal Certifier, not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

Construction Noise & Vibration Management Plan

12. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

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- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.
- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.
- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the *Principal Certifier*.

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

Public Liability

13. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the *Principal Certifier* and Council.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Inspections during Construction

14. Building works are required to be inspected by the *Principal Certifier*, in accordance with section 6.5 of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Building & Demolition Work Requirements

15. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2011;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Randwick City Council Asbestos Policy (adopted 13 September 2005).

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

Public Safety & Site Management

16. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- c) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.
- e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- f) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

Site Signage

17. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifier*,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm only • Saturday - No work permitted

	<ul style="list-style-type: none"> • Sunday & public holidays - No work permitted
Additional requirements for all development	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifier' issuing an 'Occupation Certificate'.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

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

Fire Safety Certificates

20. Prior to issuing an interim or Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

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

Structural Certification

21. A Certificate must be obtained from a *professional engineer*, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifier*. A copy of which is to be provided to Council with the Occupation Certificate.

Sydney Water Certification

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

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

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

Noise Control Requirements & Certification

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

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

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Fire Safety Statements

24. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council (at least on an annual basis) in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

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

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

Environmental Amenity

25. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
26. The use of the outdoor terrace and the operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and *Regulations*.

Hours of Operation

27. The roof terrace area must not be used between 10:00pm and 7:00am, Monday to Sunday.

Amplified Music

28. Speakers and/or noise amplification equipment are not permitted to be installed in the roof terrace area.

Development Application Report No. D58/22

Subject: 43 Sackville Street, Maroubra (DA/740/2021)


Executive Summary

Proposal:	Alterations to existing ground level and a new first floor addition to the existing single storey detached dwelling and construction of a new detached garage
Ward:	Central Ward
Applicant:	M Nasiry
Owner:	D Blajic
Cost of works:	\$355 245
Reason for referral:	The works involve partial demolition and alterations and additions to a Heritage Item

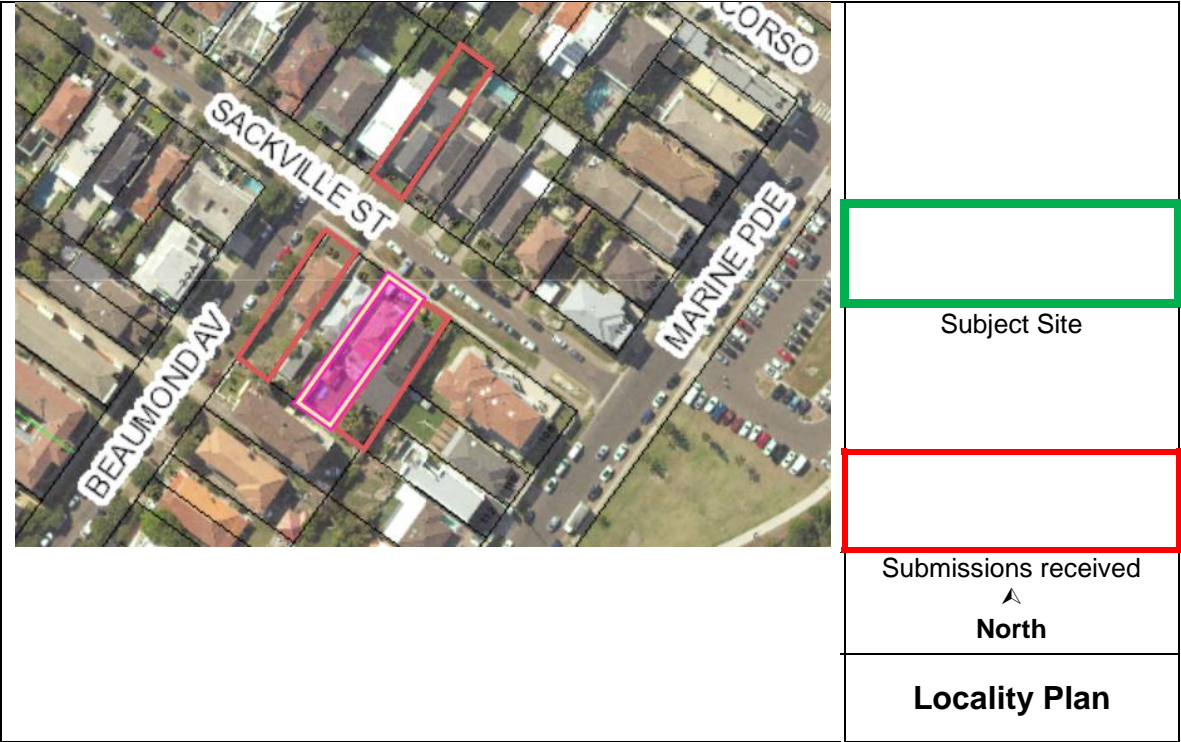
Recommendation

- A. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/740/2021 at 43 Sackville Street, Maroubra subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/740/2021 - 43 Sackville Street, MAROUBRA NSW 2035 - DEV - Mr M Nasiry

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1. Executive summary

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

- The development involves substantial alterations and additions to a heritage item, including demolition works.

The proposal seeks development consent for alterations and a new first floor addition to the existing single storey detached dwelling and construction of a new detached garage.

The key issues associated with the proposal relate to the impact of the works upon the significance of the heritage item and impact to views from the adjoining properties.

The proposal is recommended for approval subject to non-standard conditions in relation to heritage conservation.

2. Site Description and Locality

The site is on the south-western side of Sackville Street with a frontage of 10.06m and depth of 41.02m and a site area of 413sqm. The site has a fall from the front north-eastern boundary down towards the rear south-western boundary, with a difference in level of approximately 1m. On site at present is a free standing single storey dwelling which is listed as a local heritage item under Schedule 5 of RLEP 2012. The site is also identified as being within a foreshore scenic protection area pursuant to clause 6.7 of RLEP 2012.

3. Relevant history

In response to advice from Council's Heritage Planner the proposal has been amended to reduce the length of the proposed upper level by 4.17m to maintain the existing front portion of the dwelling.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing dwelling involving demolition of the rear portion of the dwelling to accommodate a two storey addition at the rear comprising ground level open plan living areas kitchen and laundry with rear BBQ area, and upper level bedrooms and bathrooms. The existing front portion of the dwelling will be reconfigured

to provide for a new bathroom and linen cupboard. The new upper level of the dwelling will contain two bedrooms, two bathrooms, study and rear balcony.

An existing garage is to be demolished and a new garage is proposed to the rear south-western corner of the site.

5. Notification

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

Issue	Comment
39 Sackville Street Maroubra	
-Concerns in relation to privacy.	Within the northern side elevation there are several windows with sill heights over 1m above the top of the windows of the adjoining property that will mitigate any direct overlooking. A condition is included to require the window 'W14' which is at a lower level to the staircase is to be of obscured glazing. A balcony is proposed to the rear of the site. A condition is included to require that balcony to have screening to both sides that comply with the DCP controls.
-Concerns in relation to view impacts from their property.	The view impact has been assessed in the View Loss Assessment in Section 8.1, Key Issues. The view loss from this property is assessed as minor.
45 Sackville Street Maroubra	
-Concerns in relation to overshadowing upon their property.	There will be additional overshadowing to this adjoining property which is primarily due to the site orientation not because of an inappropriate or non-complying design. The resultant overshadowing is within the controls of the DCP and this adjoining property will maintain solar access in accordance with the DCP controls.
-There are concerns in relation to overlooking from new upper level windows.	Within the upper level southern elevation there are several windows with sill heights of approximately RL30.5. The location and height of those windows will primarily look across the roof of the adjoining property rather than into any private living areas. A balcony is proposed to the rear of the site. A condition is included to require that balcony to have screening to both sides that comply with the DCP controls.
62 Sackville Street Maroubra	
-The new upper level to the dwelling will significantly impact views from their property.	The view loss impact has been assessed in detail in Section 8.1, Key Issues below. The view loss from this property is assessed as minor.

6. Relevant Environment Planning Instruments

6.1. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1	0.47:1	Yes
Height of Building (Maximum)	9.5m	8.3m	Yes

6.1.1. **Clause 5.10 - Heritage conservation**

The application details alterations and additions to an existing dwelling which is a listed Heritage Item under RLEP 2012 and as required under Clause 5.10 of the RLEP consideration must be given to the impact that the proposed development may have upon the significance of the item.

The proposal as amended has been considered by Council's Heritage Planner who has advised that there are no heritage objections in relation to the demolition of the rear portion of the building as they compromise secondary building fabric that has been the subject to considerable change in the recent past, the second level addition to the dwelling is generally consistent with the DCP controls in relation to scale and form and that the new garage is also consistent with the relevant DCP controls.

Specific conditions of consent have been recommended in relation to;

- The retention of original ceilings in the bathroom and linen cupboard,
- Retention of the existing fireplace in bedroom 1 and brick wall arch between bedroom 1 & 2,
- Retention of ornamental ceilings and cornices in the 3 main bedrooms, 1,2 & 3.
- Retention of decorative trimmings and skirtings, picture rails, architraves and doors in bedrooms 2 and 3.
- The preparation of an archival recording of the existing garage and dwelling affected by the proposed changes.

6.1.2. **Clause 6.7 – Foreshore Scenic Protection Area**

The subject site is identified as being within a Foreshore Scenic Protection Area pursuant to clause 6.7 of RLEP 2012.

The objectives of this clause of the LEP are as follows;

- To recognize, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,
- To protect and improve visually prominent areas adjoining the coastal foreshore,
- To protect significant public views to and from the coast,
- To ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.

Development 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 minimize 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 subject site is not within a visually prominent area in relation to the foreshore and the site is within the middle of the street amongst a group of older style and contemporary dwellings and some older multi-unit housing.

The locality is undergoing transition with many older dwellings being either demolished or significantly altered.

In relation to these building works, the alterations and additions do not dominant or detract from the existing appearance of the dwelling and its setting within the local streetscape. The nominated materials and colours are consistent with contemporary development and the colour palette will not detract from the overall aesthetics to or from the foreshore scenic protection area.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

Heritage

As noted above in Section 6.1.1, the proposal has been considered by Council's Heritage Planner in relation to the impact of the works upon the heritage item. The proposal has been amended to reduce the size of the upper level and maintain more of the existing front portion of the dwelling is acceptable subject to specific conditions in relation to the retention of internal building fabric and the preparation of archival recording of the existing dwelling and garage. Refer to the heritage referral in Appendix 1.

View Loss Assessment

Submissions have been received from the owners of nearby properties at 39 & 62 Sackville Street raising concerns to the impact that the development may have upon the existing views available from those properties.

The Land and Environment Court has established a four step analysis of view loss in *Tenacity v Warringah Council* (2004). The Commissioner in deciding whether or not view sharing was reasonable adopted the following planning principle.

- a) *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or Headland) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which interface between land and water is visible is more valued than one in which it is obscured.*
- b) *The second step is to consider from part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side and sitting views is often unrealistic.*
- c) *The third step is to assess the extent of the impact. This should be done for the whole property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them) The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*
- d) *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact upon the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably*

be considered acceptable and the view sharing reasonable.

The applicant has provided a view loss assessment in response to the concerns raised by the owners of 62 Sackville Street Maroubra which is opposite. The analysis includes photomontages of the existing views and the impact to those views as a result of the proposed development. See relevant extracts below.



Existing views outlined in red.

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Proposed upper level addition, noting the view impacts.

The owner of 39 Sackville Street has provided photos in their submission of their existing view which is across the adjoining property at 41 Sackville Street and the subject property at 43 Sackville Street. See below.



View from No. 39 Sackville Street

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View from No. 39 Sackville Street

Having regard to the four step assessment in the established view loss analysis, and the information provided by the applicant in the Visual Impact Assessment, the view impacts are assessed as follows.

View impact from No.39 Sackville Street Maroubra.

- a) The views available are ocean views to the east across the properties that are directly to the east of that property. The view is already impacted by the existing buildings and vegetation to the adjoining properties to the side and behind.
- b) The view from this property is from the upper level windows of the dwelling and across the adjoining property at 41 Sackville Street and the subject property at 43 Sackville Street.
- c) The view loss to the property at 39 Sackville Street is minor in that the existing view is not of high quality being an already partially obscured ocean view that is only available through a small corridor between the existing garage at the rear of the subject property and the two storey buildings to the east and south. It is important to note that this view was always vulnerable due to it being across the side of properties and because the subject site has a dwelling in original condition that has not been developed to its possible potential as a two storey dwelling as allowed by the planning controls, and as reflected by the desired future character of the locality.
- d) Considering the reasonableness of the proposal and the impact upon existing views from the properties adjoining in Sackville Street the proposal is acceptable. The view loss impact is primarily a result of the rear setback and the height of the development, both of which comply with the controls. Furthermore, in response to concerns raised by Council's Heritage

Planner, the proposal has been amended to reduce impacts upon the existing heritage listed dwelling by locating the proposed addition to the rear, allowing more of the existing roof to be retained. The FSR for the development is significantly under that permitted by the development standard, with the bulk and scale not considered to be excessive. It is considered that any two (2) storey development on the subject site would likely impact upon the existing view corridor from No. 39 and in this instance there is not a more skilful design that could reduce the impact while still permit the same amenity for the development.

View impact from 62 Sackville Street Maroubra

- a) The views available are of Maroubra Bay and Malabar headland, including the interface of water, headland and vegetation.
- b) The views from the properties opposite are from the upper level windows of those dwellings.
- c) The view loss to the property at 62 Sackville Street opposite is minor in that the majority of the view is maintained. The view that is impacted across the adjoining property is already partly obscured by the existing large trees at the rear of the subject site. The view that is obscured is a corner portion of the eastern edge of the proposed upper level addition to the dwelling. The remaining outlook views including the interface of the water and headland is maintained in full. It is important to note that these views are vulnerable to some impact due to the existing nature of dwelling in its original single storey state that has not been developed to its potential as two storey dwellings are allowed by the planning controls, and as reflected by the desired future character of the locality.
- d) Considering the reasonableness of the proposal and the impact upon existing views from the properties on the opposite side of Sackville Street the proposal is acceptable. No amendments are not necessary to maintain views, with the primary and extensive views not affected by this proposal.

Comment:

The reasonableness of the proposal is further demonstrated by the fact that the dwelling is compliant with the building height and floor space ratio controls, which not only satisfies those controls but is in keeping with the desired future character of the residential locality as expressed in the R2 Objectives of the Randwick Local Environmental Plan, 2012.

It is also noted that the proposal complies with the relevant controls of the Development Control Plan – Low Density Residential, in terms of site coverage, setbacks and external wall height.

In terms of overall design the alterations and additions to the dwelling are not unreasonable as the proposal complies with the relevant LEP and DCP controls and as can be seen from the photos of the views in question and the visual impact assessment no amendments are necessary to maintain the primary views from the properties opposite.

Overall, it is concluded that the views impacts are acceptable for the following reasons;

- a) Views across adjoining properties are acknowledged as being difficult to maintain. Especially as in this case the existing views from the properties on the opposite northern side of Sackville Street have been available due to the original single storey nature of the subject dwelling and those views could be always regarded as being vulnerable to impact if and when the subject property was the developed in a similar bulk and scale to the adjoining dwellings. However, as noted in this case the primary extensive views to Maroubra Bay and Malabar Headland, in particular the interface of the water, headland and vegetation is maintained. The views from 39 Sackville Street are already significantly impacted by the existing development to the properties to the east and south, that view is not significant.
- b) The development complies with the relevant planning controls.

9. Conclusion

That the application to carryout alterations and additions to the dwelling be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents, and maintaining the significance of the Heritage Item.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

The site is occupied by a Spanish Mission house listed as a heritage item under Randwick LEP 2012. The Heritage NSW database listing for the building identifies its significance as an "Intact example of 1930's Spanish Mission. One of few Spanish Mission houses to survive in the Municipality." The database describes the building as a:

Very good late example of Spanish Mission style. Almost intact down to interesting and usual front fence. Typical features include barley twist columns, large piped terra cotta tiles (as ridge capping), and arched forms. Unusual front parapet over porch is very nicely styled. Also features some attractive leadlight. Twist columns more abstracted than 1920's versions.

Background

The original application proposed alterations and additions including a two storey addition. At ground floor it was proposed to remove existing skillions a to provide a laundry, pantry and open planned kitchen, dining and living area, as well as a partially roofed outdoor dining/barbeque area. Within the front section of the dwelling, it was proposed to convert the existing bathroom to a linen cupboard and the existing kitchen to a bathroom. At first floor level it was proposed to two bedrooms, two bathrooms, two study areas, a walk-in robe and rear balcony. The existing garage towards the rear of the dwelling was to be replaced by a new garage in the rear corner of the site.

Heritage concerns were raised that the proposed upper level would have a substantial impact on the main roof form, and that the bulk of the proposed two storey addition would overwhelm the single storey heritage item.

Proposal

Amended drawings have now been received. As compared to the original proposal, amended drawings have set the proposed upper level addition further to the rear.

Submission

The application has been accompanied by a Heritage Impact Statement prepared by Vienna Design Pty. Ltd which does not address the relevant Objectives and Controls within the Heritage section of Randwick DCP 2013. The amended plans have been accompanied by an amended Statement of Environmental Effects which includes the following comments in relation to Heritage Conservation:

The proposed first-floor addition is now behind the main ridge line of the existing dwelling which minimises the impact to the ground floor veillings and therefore safeguards the existing dwellings internal and externa heritage features. In addition to the reduced footprint, a schedule of conservation works and interior drawings accompany the amended plans.

Controls

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

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

The Heritage section of Randwick Development Control Plan 2013 provided Objectives and Controls in relation to heritage properties. The Heritage section of Randwick Development Control Plan 2013 provided Objectives and Controls in relation to heritage properties. In relation to Design and Character, clause 2.2 of the DCP includes a Control that additions must be located to the rear or to one side of the building to minimise impact on the streetscape. Another Control requires that the design of any proposed additions or alterations must complement the existing building in its scale, form and detailing. However, it should be possible to distinguish the new work from the old, on close inspection, so that old and new are not confused or the boundaries/junctions blurred.

In relation to Scale and Form, clause 2.3 of the DCP includes a Control that additions must not visually dominate, compete with or conceal the original form and massing of existing buildings; that upper floor additions to the rear of any single storey dwelling house should preferably use pavilion-type forms, with a lower scale linking structure between the original building and any double storey addition; that if a pavilion-type form is not suitable or desirable in the location, an upper floor addition may be acceptable, set well to the rear of the building to minimise impact on the main roof and to minimise streetscape visibility.

In relation to Detailing, clause 2.5 of the DCP includes a Control that alterations and additions should adopt a level of detailing which complements the heritage fabric and should (in general) be less elaborate than the original. In relation to Materials, Finishes and Colour Schemes, clause 2.6 of the DCP includes a Control that alterations and additions must use materials and colours similar to, or compatible with, the original material or colours.

In relation to Garages, Carports, Carspaces and Driveways, clause 2.9 of the DCP includes a Control that carparking structures are to be located to the side, or preferably to the rear of the building. Garages and carports must not be located forward of the building line. The DCP also includes a Control that buildings housing original stables, coach houses and interwar motor garages should be retained and conserved wherever possible.

Comments

Council's electronic application records for the dwelling include a building application for construction of the cottage in 1930, and for alterations and additions in 1979. Council's historic aerial photographs indicate that the original form of the dwelling comprised a main hipped roof with a narrow rear skillion. It appears that in the early 1980s, the original skillion falling towards the rear was enlarged, and further skillion falling towards the side, was added. The original roof form comprises a hipped roof having a ridge perpendicular to the street, with a front hip over the front bedroom and a front gable concealed behind the decorative parapet.

Changes within the front section of the dwelling

The HIS does not provide photographs of the interior of the dwelling, nor any information on the extent of original internal detailing. It is proposed to convert the existing bathroom to a linen cupboard and the existing kitchen to a bathroom. Externally, it appears that no changes to existing openings are proposed. Internally, the new linen cupboard will retain the configuration and door opening of the original bathroom. The existing kitchen is open to the hallway, while new walls are proposed to enclose the proposed bathroom. It is unclear whether any original ceilings will be impacted by the new walls. No changes are proposed to the layout of the other three main rooms in the front section of the dwelling, allowing any remaining internal detailing including timberwork and plasterwork to be retained in these areas. A consent condition should be included requiring archival recording of the areas of the dwelling affected by the proposed changes.

Conservation works

The HIS advises that it is proposed to retain, restore and reinstate the character and decorative features of the original section of the house including existing bedrooms, front verandah and fence. No further information was provided on the condition of existing internal and external features. Amended drawings include a Schedule of Interior Conservation Works. The Schedule notes that the existing sealed fireplace (bedroom 1) and the existing sealed brick arch wall between bedroom 1 and bedroom 2 are to be retained; that ornamental ceilings and cornices in the three main rooms (beds 1, 2 and 3) are to be retained; "ornamental trimmings" in the entry hall and bed 1 are to be renovated and retained; and "standard trimmings" in bed 2 and bed 3 are to be renovated and retained like-for-like. A consent condition should be included requiring retention of original detailing in these areas to be retained to the greatest extent possible.

Demolition

The existing rear skillions comprise a dining area, laundry and workshop store. These skillions appear to have been enlarged in the early 1980s. There are no heritage objections to the demolition of the rear skillions which comprise secondary building fabric, subject to considerable change in the recent past.

Two storey addition

In the original drawings, the proposed two storey addition partially projected over the existing ground floor level and resulted in the removal of around 30% of the primary roof form. Amended drawings

have adopted a pavilion-type form, extending the existing rear hip to meet the addition, reducing impact on the main roof form. The increased setback of the front wall of the addition will considerably reduce its streetscape visibility.

Amended drawings have simplified the upper level roof form to comprise a main hipped roof and a rear projecting hip over the rear balcony. The proposed rear addition retains the original ceiling levels, with the upper level having a ceiling height of 2.65m. The wall height of the upper level addition will be around 1m above the main ridgeline, and ridge height around 2.4m above the main ridgeline. Amended drawings have reduced the visual dominance of the proposed upper level addition, so that it will not overwhelm the single storey heritage item. Amended drawings are generally consistent with DCP Controls in relation to Scale and Form.

The existing dwelling has rendered brick walls with rendered mouldings, painted in an appropriate cream colour scheme and a multi-coloured glazed tiled roof. The Finishes Schedule indicates cement rendered brick walls to match existing and red Marseilles pattern roof tiles. Proposed new materials are similar to and compatible with original materials, and appropriately less elaborate than the original.

New garage

The existing hipped roof garage appears in the 1942 aerial photographs and is early or original, and appears to have a multi-coloured terracotta tiled roof matching the main roof. The HIS advises that the garage is “in a dilapidated stage” and it is to be demolished. A new skillion roofed garage is to be constructed in the rear south west corner of the site. The siting of the new garage is consistent with the relevant DCP Controls. A consent condition should be included requiring archival recording of the original garage.

Appendix 2: DCP Compliance Table

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 below.

(Note: a number of control provisions that are not related to the proposal have been deliberately omitted)

3.1 Section B2: Heritage Conservation

The relevant provisions under Section B2 of the DCP have been considered and addressed by Council's Heritage Officer as outlined in Appendix 1 above.

3.2 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning		
2.3	Site coverage		
	301 to 450 sqm = 55%	Site = 413sqm Proposed = 47%	Yes
2.4	Landscaping and permeable surfaces		
	i) 301 to 450 sqm = 25% ii) Deep soil minimum width 900mm. iii) Maximise permeable surfaces to front iv) Retain existing or replace mature native trees v) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. vi) Locating paved areas, underground services away from root zones.	Site = 413sqm Proposed = 27%	Yes
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	301 to 450 sqm = 6m x 6m	Site = 413sqm Proposed = 6.4m x 10m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.75:1	Site area = 413sqm Proposed FSR = 0.47:1	Yes
3.2	Building height		
	Maximum overall height LEP 2012 =9.5m	Proposed = 8.3m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Proposed = 6.65m	Yes
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage:	No change to existing front setback	N/A

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front		
3.3.2	Side setbacks: <ul style="list-style-type: none"> • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1st floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1st floor), 1800mm above. Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum = 900mm Proposed = 340mm as existing to the front of the dwelling, south eastern side of dwelling. 900mm to new portions of dwelling.	Yes, to new portion of dwelling
3.3.3	Rear setbacks <ul style="list-style-type: none"> i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access 	Minimum = 8m Proposed = 13.5m	Yes
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 	The proposed alterations and additions to the dwelling generally comply with the DCP controls.	Yes
4.4	Roof Design and Features		
	<i>Rooftop terraces</i> <ul style="list-style-type: none"> i) on stepped buildings only (not on uppermost or main roof) ii) above garages on sloping sites (where garage is on low side) <i>Dormers</i> <ul style="list-style-type: none"> iii) Dormer windows do not dominate iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. v) Multiple dormers consistent vi) Suitable for existing <i>Clerestory windows and skylights</i> <ul style="list-style-type: none"> vii) Sympathetic to design of dwelling <i>Mechanical equipment</i> <ul style="list-style-type: none"> viii) Contained within roof form and not visible from street and surrounding properties. 	Conventional hipped roof, no terrace or dormers.	Yes
4.5	Colours, Materials and Finishes		
	<ul style="list-style-type: none"> i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) 	A colours and materials schedule has been provided.	Yes

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DCP Clause	Controls	Proposal	Compliance
	iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)		
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	The extent of necessary earthworks do not exceed the DCP controls.	Yes
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The north facing windows and POS will receive solar access in accordance with the DCP controls.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining 	The adjoining properties will maintain solar access in accordance with the DCP controls.	Yes

DCP Clause	Controls	Proposal	Compliance
	allotments. <ul style="list-style-type: none"> Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 		
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) living rooms contain windows and doors opening to outdoor areas <i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable	The overall design of the proposal will allow for light and ventilation throughout the dwelling. A BASIX Certificate has been provided.	Yes
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	The ground floor living room window W04 is at a higher floor level and opposite a window to the adjoining dwelling and requires modification to maintain privacy in accordance with the DCP controls. Within the upper level southern elevation there are several windows with sill heights of approximately RL30.5. The location and height of those windows will primarily look across the roof of the adjoining property rather than into any private living areas. Within the northern side elevation there are also several	Yes, subject to condition.

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DCP Clause	Controls	Proposal	Compliance
		windows, W11, W12, W13 & W14 all of which require modification to satisfy the DCP privacy controls.	
	Balcony		
	<ul style="list-style-type: none"> iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space. 	<p>A balcony is proposed to the rear of the site.</p> <p>A condition is included to require that balcony to have screenings to both sides that comply with the DCP controls.</p>	Yes
5.6	View Sharing		
	<ul style="list-style-type: none"> i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used) 	See detailed view loss impact in the Key Issues	See Key Issues
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	<ul style="list-style-type: none"> i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: <ul style="list-style-type: none"> - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces) 	The existing vehicle access to the northern side of the site is maintained.	Yes
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-	A detached garage	Yes

DCP Clause	Controls	Proposal	Compliance
	Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing	is proposed within the rear yard.	
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	3m as existing	Yes
6.5	Garage Configuration		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	The new garage is a detached building at the rear of the site.	Yes
7	Fencing and Ancillary Development		
7.4	Outbuildings		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: - finished external walls (not requiring maintenance; - no openings facing neighbours lots and - maintain adequate solar access to the neighbours dwelling v) First floor addition to existing may be considered subject to: - Containing it within the roof form (attic) - Articulating the facades; - Using screen planting to visually soften the outbuilding; - Not being obtrusive when viewed from the adjoining properties; - Maintaining adequate solar access to the adjoining dwellings; and - Maintaining adequate privacy to the adjoining dwellings. vi) Must not be used as a separate business premises.	The garage is sited up to the rear and western side boundaries and has an overall height of 2.947m, and external wall height of 2.647m. There are no objections to the siting of the garage outbuilding as it will not unreasonably impact upon the amenity of the adjoining properties in term of solar access and visual amenity. The external wall height whilst non complying is consistent with the skillion roof form of the garage and it is noted that the overall height of the building is significantly less than the DCP	Yes

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DCP Clause	Controls	Proposal	Compliance
		maximum.	
7.6	Air conditioning equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	The location of the AC unit to the rear eastern side of the dwelling is not directly opposite any windows to the adjoining property and will minimise amenity impacts to that adjoining dwelling.	Yes

3.3 Section B10: Foreshore Scenic Protection Area

DCP Clause	Controls	Proposal	Compliance
	i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated. ii) Integrated outbuildings and ancillary structures with the dwelling design (coherent architecture). iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues). iv) Must not use high reflective glass v) Use durable materials suited to coast vi) Use appropriate plant species vii) Provide deep soil areas around buildings viii) Screen coping, swimming and spa pools from view from the public domain. ix) Integrate rock outcrops, shelves and large boulders into the landscape design x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.	<p>The immediate locality is undergoing transition and includes a variety of old original buildings, dwellings and multi housing development.</p> <p>There is no dominant building form or style and in relation to the proposed design and proposed materials and colours used for this dwelling are consistent with contemporary taste and colour palette and will not detract from the overall aesthetics to or from the foreshore scenic protection area.</p>	Yes

Responsible officer: Perry Head, Environmental Planning Officer

File Reference: DA/740/2021

Development Consent Conditions (dwellings and dual occupancies)



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Folder /DA No:	DA/740/2021
Property:	43 Sackville Street, MAROUBRA
Proposal:	Demolition, alterations and a new first floor addition to the existing single storey detached dwelling and construction of a new detached garage (Heritage Item).
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated
A095 Rev 4	Michael Nasiry	8/6/2022
A100 Rev 4	Michael Nasiry	8/6/2022
A101 Rev 4	Michael Nasiry	8/6/2022
A150 Rev 4	Michael Nasiry	8/6/2022
A151 Rev 4	Michael Nasiry	8/6/2022
A200 Rev 4	Michael Nasiry	8/6/2022
A950 Rev 4	Michael Nasiry	8/6/2022

BASIX Certificate No.	Dated
A439160_02	29/11/2021

Amendment of Plans & Documentation

- The approved plans and documents must be amended in accordance with the following requirements:
 - Privacy screens to the rear balcony are to have a height of 1600mm, measured above floor level and area to be provided to both sides of the balcony.

Privacy screens must be constructed with either:

 - Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);

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

b. The following windows must have a minimum sill height of 1.6m above floor level, or alternatively, the windows are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:

- W04, W11, W12, W13 & W14

Heritage Conservation

3. Remaining original ceilings in the new bathroom (former kitchen) and the new linen cupboard (former bathroom) are to be retained and repaired to the greatest extent possible.
4. The existing sealed fireplace (bedroom 1) and the existing sealed brick arch wall between bedroom 1 and bedroom 2 are to be retained in accordance with the Schedule of Interior Conservation Works prepared by DDM, dated 08.06.2022 and submitted to Council on 08/06/2022.
5. The ornamental ceilings and cornices in the three main rooms (beds 1, 2 and 3) are to be retained in accordance with the Schedule of Interior Conservation Works prepared by DDM, dated 08.06.2022 and submitted to Council on 08/06/2022.
6. Other decorative detail/"ornamental trimmings" including original skirtings, picture rails, architraves and doors in the entry hall and bed 1 are to be retained and repaired as required, in accordance with Schedule of Interior Conservation Works prepared by DDM, dated 08.06.2022 and submitted to Council on 08/06/2022.
7. Other decorative detail/"standard trimmings" including original skirtings, picture rails, architraves and doors in bed 2 and bed 3 are to be retained and repaired to the greatest extent possible, or renovated and retained like-for-like, in accordance with Schedule of Interior Conservation Works prepared by DDM, dated 08.06.2022 and submitted to Council on 08/06/2022.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

Heritage Conservation

9. A digital photographic archival recording internally and externally, of the existing garage and the areas of the dwelling affected by the proposed changes shall be prepared and submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Digital Capture. One digital copy (DVD or USB) of the archival recording is to be submitted to Council for deposit in the Local History Collection of Randwick City Library and Council's own records incorporating the following:

- A PDF copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs;
- Digital copies of the archival photographs in JPEG and TIFF formats.

Section 7.12 Development Contributions

10. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$355,245.00 the following applicable monetary levy must be paid to Council \$3,552.45.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6999 or 1300 722 542 for the indexed contribution amount prior to payment.

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Long Service Levy Payments

11. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

Sydney Water Requirements

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

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

*The Sydney Water **Tap in™** online service replaces the Quick Check Agents as of 30 November 2015*

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

- Building plan approvals
- Connection and disconnection approvals

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

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Compliance with the Building Code of Australia & Relevant Standards

13. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

BASIX Requirements

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

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

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

Building Encroachment

15. Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

Stormwater Drainage

16. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-
- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant provisions of the Building Code of Australia (Volume 2) and relevant Standards;

- b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
- c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
- d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
- e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works;
- f) A certificate, from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifier', as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

Certification and Building Inspection Requirements

17. Prior to the commencement of any building works, the following requirements must be complied with:
- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the Principal Certifier and Council are to be notified accordingly; and
 - d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
 - e) at least two days' notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

18. In accordance with section 4.17 (11) of the Environmental Planning & Assessment Act 1979 and clause 98 of the Environmental Planning & Assessment Regulation 2000, the relevant requirements of the Home Building Act 1989 must be complied with.

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

Dilapidation Reports

19. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person, in the following cases:

- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises;
- new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or terraced dwellings);
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises;
- as otherwise may be required by the *Principal Certifier*.

The dilapidation report shall include details of the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises and shall include relevant photographs of the structures, to the satisfaction of the *Principal Certifier*.

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

Construction Noise & Vibration Management Plan

20. Noise and vibration emissions during the construction of the building and associated site works must not result in an unreasonable loss of amenity to nearby residents and the relevant requirements of the *Protection of the Environment Operations Act 1997* and NSW EPA Guidelines must be satisfied at all times.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

Construction Site Management Plan

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

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;

- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

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

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

Demolition Work

22. Demolition Work must be carried out in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant work health and safety requirements.

A Demolition Work Plan must be prepared for the demolition works which should be submitted to the Principal Certifier, not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

Demolition & Construction Waste Plan

23. A *Demolition and Construction Waste Management Plan* (WMP) must be developed and implemented for the development.

The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.

Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's Customer Service Centre or by telephoning Council on 1300 722 542.

Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Inspections during Construction

24. Building works are required to be inspected by the *Principal Certifier*, in accordance with section 6.5 of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Site Signage

25. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)
- name, address and telephone number of the Principal Certifier,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 5.00pm • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

Removal of Asbestos Materials

27. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy
- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifier.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifier.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier upon completion of the asbestos

related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Excavations, Back-filling & Retaining Walls

28. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Details of proposed retaining walls, shoring, piling or other measures are to be submitted to and approved by the Principal Certifier.

Support of Adjoining Land

29. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

Sediment & Erosion Control

30. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom.

Details of the sediment and erosion control measures to be implemented on the site must be included in with the Construction Management Plan and be provided to the Principal Certifier and Council. A copy must also be maintained on site and be made available to Council officers upon request.

Public Safety & Site Management

31. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.

Temporary site fences are required to be constructed of cyclone wire fencing material and be structurally adequate, safe and constructed in a professional manner. The use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
 - b) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
 - c) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.

- d) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- e) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open out into the road or footway.
- f) Site fencing, building materials, bulk bins/waste containers and other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- h) A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.
- i) Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

Site Signage

32. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
 - name, address and telephone number of the *Principal Certifier*,
 - a statement stating that "unauthorised entry to the work site is prohibited".

Building Encroachments

33. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.
34. This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
- the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or
 - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the '*Principal Certifier*' issuing an '*Occupation Certificate*'.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

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

BASIX Requirements & Certification

36. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that any relevant BASIX commitments and requirements have been satisfied.

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

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

External Lighting

37. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

Use of parking spaces

38. The car space within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.

Development Application Report No. D59/22

Subject: 144-148 Perry Street, Matraville (DA/295/2022)


Executive Summary

Proposal:	Alterations to Matraville Hotel including internal rearrangement of the south-eastern corner of the pub at ground and basement levels
Ward:	South Ward
Applicant:	Oasis Hotel Group Pty Ltd
Owner:	Oasis Hotel Group Pty Ltd
Cost of works:	\$484,550.00
Reason for referral:	The development involves demolition of a heritage item.

Recommendation

- A. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/295/2022 for internal alterations to Matraville Hotel, (front bar, office, bottle shop), ground floor internal alterations and minor addition involving excavation at the basement level for new stair, at No. 144-148 Perry Street, Matraville NSW 2036, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (commercial) - DA/295/2022 - 144-148 Perry Street, MATRAVILLE NSW 2036 - DEV - Randwick City Council

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development involves partial demolition of a heritage item.

The proposal seeks development consent for internal alterations to Matraville Hotel. The relevant aspects of the works relate to internal rearrangement of the south-eastern corner of the pub at ground and basement levels. At ground level, the proposal seeks to rearrange the bar, office, bottle shop and relocate stair access to the basement level keg storage areas.

There are no major issues in relation to the proposal as it relates to internal works that are more efficient and separate public from private functions which are considered to have a positive influence on patrons and employee's amenity.

The proposal is recommended for approval subject to standard conditions.

2. Site Description and Locality

The subject site is legally described as Lots 8,9 and 10 in DP 13830. The site is a corner block of 1,847m² and has a 61m frontage to Bunnerong Road to the east and 53.6m to Perry Street to the south.

The site is listed as a local Heritage Item (I242) on Schedule 5 of RLEP 2012.

The site contains the Matraville Hotel, which comprises a pub and a TAB agency. The TAB agency occupies part of the ground floor with frontage to Bunnerong Road. The pub comprises bars/bistro/gaming/bottle-shop at the ground floor and accommodation at the first floor.

The pub operates a Hotel Liquor Licence issued under the Liquor Act 2007 (LIQH400103808). The approved hours of operation under the hotel licence are 5:00am to 3:00am (the following day) Monday to Saturday and 10.00am to 12 midnight Sunday.

Vehicular access is provided off Perry Street, adjacent the western site boundary, to a parking area with space for 14 cars in the north-western part of the site.

The pub has a capacity of 300 persons under an approved Plan of Management (POM). There are no conditions of consent relating to the capacity of the TAB agency. The Applicant advises the capacity of the TAB agency is estimated as 100 persons in accordance with the Building Code of Australia (BCA).

The site is located in the Matraville Local Centre, which extends along Bunnerong Road, primarily to the north of the site. Development within the centre comprises a mix of older style 1-2 storey shop buildings and newer shop top housing developments with retail at ground and heights of 4-5 storeys. The centre contains a mix of generally small-scale shops and business uses, with some larger premises including Woolworths to the north and Matraville RSL Club to the east of the site.

Adjoining to the west is a three-storey residential flat building at No. 142 Perry Street. Further to the west are single dwelling houses, on the western side of Baird Avenue. Adjoining to the north is a two-storey shop building at 540-542 Bunnerong Road and adjoining the north-west corner of the site is a three-storey residential flat building at 55 Baird Avenue. Further to the north is a 4 storey shop top housing development on the Bunnerong Road frontage.

3. History

1. DA/338/2021: RLPP granted consent, to Development Application No. 338/2021 for alterations and additions to the existing building known as the Matraville Hotel (pub & TAB agency) including partial demolition, replacing the drive-through with new Tab, Bar and toilet facilities, reconfigured internal layout comprising sports bar, enclosing side walls to the terrace, signage and associated works, at No. 144-148 Perry Street, Matraville. Non-standard conditions related to requirements for compliance with the smoke-free Environment Act and regulation and hours of operation to be in accordance with DA/387/2003 (as modified) and DA/384/2007.

Note: The subject DA does not seek to alter the RLPP non-standard conditions of this consent.

The following are a list of previous development consents largely relating to alterations and operation of the pub.

2. DA/122/2017 approved under delegated authority alterations to the Matraville Hotel including:
 - Internal reconfiguration resulting in repositioned facilities and gaming machines, new enclosure of the bar area, and refurbished bar and kitchen
 - New paint finish to the street facades and decorative features to the gaming entrance door.
 - Continued use of the first floor for long term rentals of single room accommodation.
 - Continued operation of the existing approved pub, including a patron capacity of 300 people and approved operating hours in line with the existing Plan of Management and conditions of consent: From 5:00am to 3:00am on Monday-Saturday, From 10:00am to 12:00am on Sunday nights.
3. DA/116/2009: Approved alterations to existing hotel involving reconfiguration of existing gaming lounge, bistro area with new kitchen, extension of gaming area into existing covered terrace area and various modifications.
4. DA/384/2007: A further development application DA/384/2007 received Council consent for the construction of an open ground level terrace area fronting Perry Street which had access from the gaming lounge. This consent imposed restricted hours for both terraces: fronting Perry Street and the rear beer garden terrace via condition 16 as follows:

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16. *The hours of use for the open terrace area being restricted to:*

Monday to Saturday 8.00 AM – midnight
 Sunday 8.00 AM – 10.00 PM

The hours of use for the rear covered terrace and beer garden areas are to be restricted to 12 midnight Monday to Saturday and 10:00pm Sunday to be in conjunction with the approved hours of the proposed open terrace area and to ensure reasonable levels of amenity for the nearby residents are maintained.

5. DA/387/2003: In response to the 1999 consent condition 2 (see below) which limited the hours of operation to trial period of 12 months, the applicant submitted a DA (DA/387/2003) seeking the continued operation of the hotel with extended hours (as per DA/1368/1999). Deferred commencement consent was issued on 7 August 2003 requiring a management plan to address relevant issues. Condition 5 of the consent *limited the consent to a period of two years* to allow Council to continually monitor the extended hours. A subsequent Section 96 "A" application (DA/387/2003/A) amended condition 5 (22 July 2005) and a further Section 96 "B" application (DA/387/2003/B) approved its deletion (4 June 2007). As a result, the final outcome regarding hours of operation under this DA approved the following hours: 8.00am to 3.00am Monday to Saturday the following morning and 8.00am to 10.00pm on Sunday, (except when the Monday is a public holiday by which closing time is 3.00am Monday morning).

It is noted that the Hotelier's Licence No. 103808, pursuant to the Liquor Act 1982, allows the operation of the Gaming Room, Cocktail Bar, Sportman's Bar & Lounge & Bistro from Monday to Saturday, 5.00am to 3.00am the following day and 10:00am to midnight, Sundays which are consistent with the abovementioned hours approved under DA/387/2003.

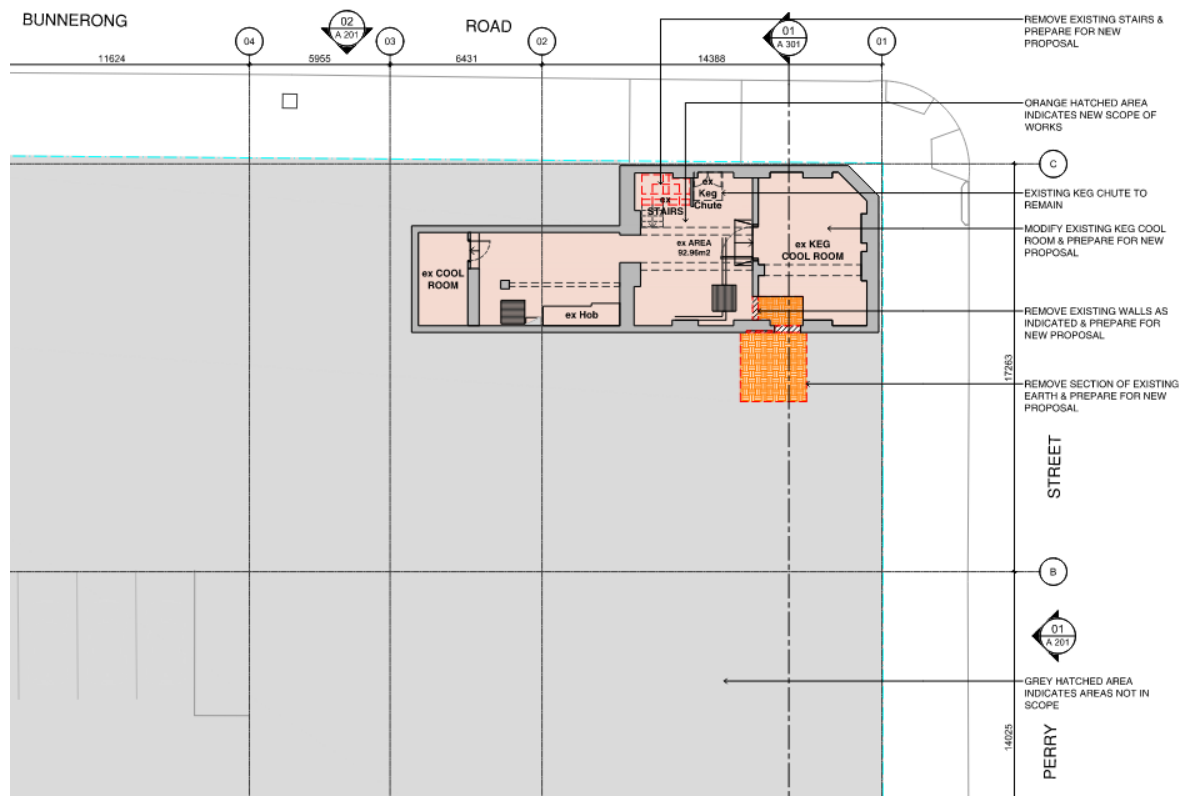
6. DA/1368/1999: approved 15 March 2000 for the extension of trading hours for the gaming bar and lounge and sportsman's saloon bar of the Matraville Hotel. The consent permits the hotel to operate from 8.00am to 3.00am the following day, Monday to Saturday and 8.00am to 3.00am, on Sundays, which precede a Monday Public Holiday. It is also noted that condition No. 2 of the development consent limits the operation of the consent to a period of twelve months. Further still, condition No. 4 of the consent prohibits the provision of live entertainment at the premises.
7. DA/709/1998: Approved on 6 January 1999 for alterations & additions (Refurbishment) of existing hotel.

4. Proposal

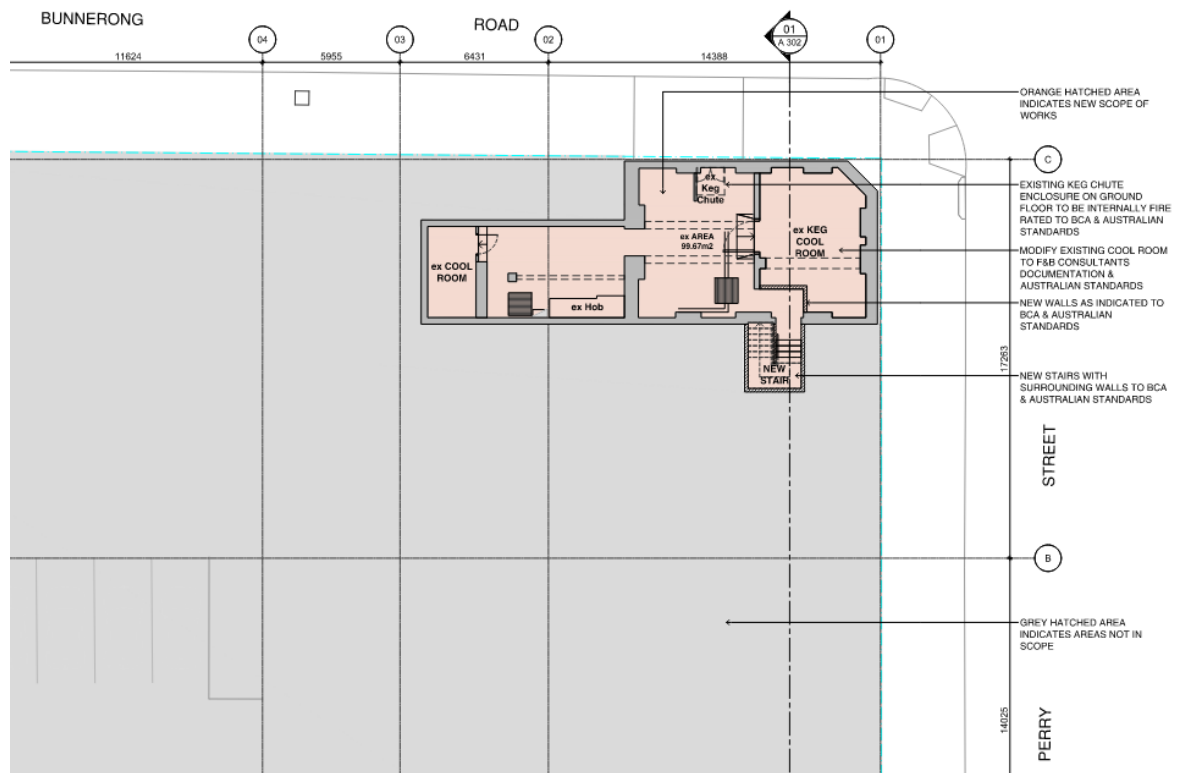
The proposal seeks development consent for internal alterations to Matraville Hotel, (front bar, office, bottle shop), ground floor internal alterations and minor addition involving excavation at the basement level for new stair.

Basement level works (orange hatched area identifies proposed excavation to accommodate new stair and red dashed line indicates current location of stairs from ground level:

The proposal does not seek to alter the current operations of the hotel.

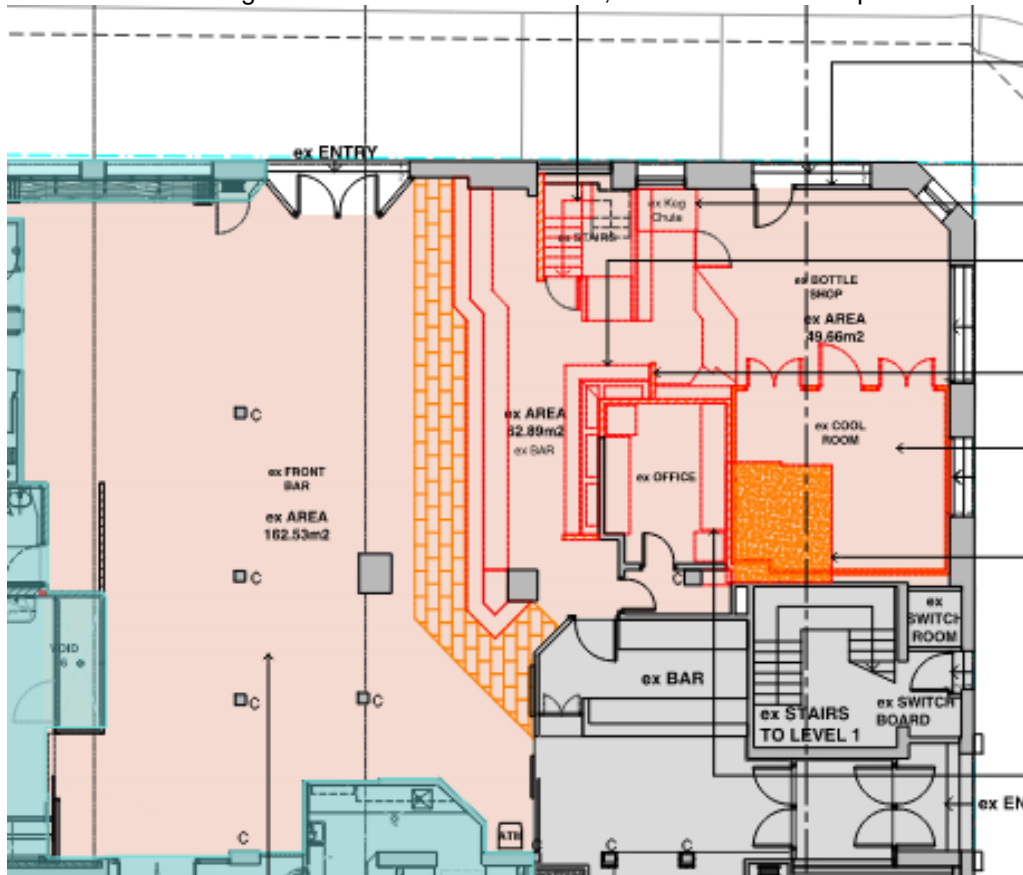


Basment level proposed:

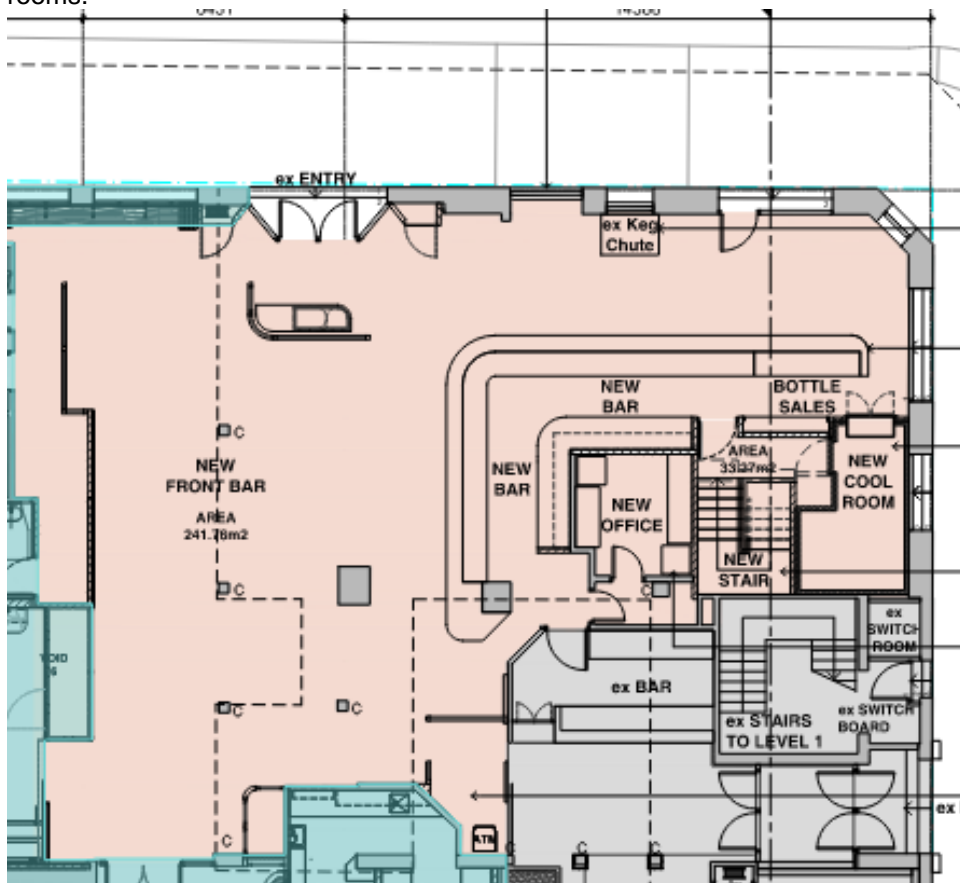


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Ground level existing shows current location of bar, office and bottle shop



Ground level proposed showing reconfigured cool room, office and stair access down to the keg rooms.



5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Community Participation Plan. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned B2 Local Centre under Randwick Local Environmental Plan 2012, and the proposal is permissible with consent.

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for dedicated access pathways to the keg room and open bar/bottle shop areas resulting in improved amenity for both patrons and employees.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	No maximum applicable	No change proposed to the external appearance	NA
CI 4.3: Building height (max)	19m	No change proposed to the external appearance	NA

6.1.1. Clause 5.10 - Heritage conservation

See Heritage planner comments in Appendix 1 of this report.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

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

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Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	<p>The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013 and the Social impact assessment guidelines. It is noted that the proposal is for internal alterations that don't impact the external appearance of the development as viewed from the public domain or seek any change of the hours of operation or number patrons which have been considered and assessed under previous Development Consents and or modification applications.</p> <p>Overall, it is considered that the proposed development will generally comply with the relevant objectives and controls in the following policy controls:</p> <ul style="list-style-type: none"> • Section B6 Recycling and Waste Management - conditioned • Section B7 Transport, Traffic, Parking and Access – no material impact • Section D5 Matraville Centre – no material impact • Section D13 Late Night trading – no material impact • Social Impact Assessment Guidelines for Assessing Development Applications – no material impact
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions have been received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

Internal works

The proposed internal works relate to ground level reconfiguration of the bar, office and bottle shop and relocating stair access to basement level keg room/s to behind the office.

The proposal does not seek to alter the current operations of the hotel.

The environmental impacts are considered to be relatively minor noting no major objections from Council Officers and where relevant appropriate conditions are included in the recommended conditions of consent.

9. Conclusion

That the application to carry out internal alterations to Matraville Hotel, (front bar, office, bottle shop), ground floor internal alterations and minor addition involving excavation at the basement level for new stair be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the B2 Local Centre zone in that it ensures the current and long-standing use as a pub is updated and improved amenity for both patrons and employees.
- The internal design of the proposal is considered to be suitable for the site and does not impact the desired future character of the locality.
- The development enhances the internal quality of the premises
- The proposed development will make a positive economic contribution to the commercial centre

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

The subject site is located on a corner lot fronting Bunnerong Road to the east and Perry Street to the south. It is identified as Lots 8, 9 and 10, DP13830. Its alternative address is 544 Bunnerong Road. The site is listed as an item of local heritage significance on Schedule 5 of the Randwick Local Environmental Plan (LEP) 2012 as, 'Matraville Hotel', item number I242.

Statement of Significance

Fine example of 1920's hotel building, building approval 1927. One of the better preserved of the Municipality's old hotels. Streetscape value on key corner site.

The building's Heritage Inventory Sheet describes it as an:

- *Impressive Edwardian-style hotel at a prominent intersection, probably 1920s. Strong Classical influence. Two storeys with a long frontage to Perry Street. Features two decorative fully rendered gables. Rendered cornice and band below extends around whole building. Small, recessed balcony area with all brick piers. More or less intact. Tiling and openings appear original.*
- *The place is a typical Inter-War Georgian Revival style, two-storey brick hotel of the late 1920s. The roof is tiled (in street elevations – sheeted with corrugated steel behind) and is pitched with transverse gables fronting the streets.*
- *A comparison of the original drawings and the current interior layout show the ground floor and Perry Street elevation to be much altered. The building has also been extended along Bunnerong Road with ground floor additions and additions have been carried out to provide the existing dining room, the south-western accessible toilet and the western ventilated section of the gaming area.*
- *Externally above the awning, the building is relatively unaltered in its principal elevations to the streets. However, the original awning on Perry Street has been extended to the west of the building. Below the awning, the original tiling has been removed and rendered over. This extends over what had been face brick.*
- *Openings on the ground floor façade to Perry Street have been altered.*
- *Late-20th century tiles have been installed as the skirting of the exterior wall and around the gaming area entrance.*
- *Internally, the principal original remnants on the ground floor are the stairs and entrance off Perry Street. This stair connects to the first-floor guestroom accommodation which remains largely intact.*
- *The ground floor has been remodeled with the original late 1920s bar and other finishes lost.*

Other heritage-listed items in the vicinity of the subject site are visually and physically separated from the site by intervening development, local topography, roadways and distance.

Background

The hotel building comprises:

- *The original two-storey portion of the hotel, located at the intersection of Bunnerong Road and Perry Street (c.1928);*
- *A later single-storey addition added to the northern elevation of the original pub, fronting Bunnerong Road (1940s); and*
- *Another later one-storey garage addition abutting the northern façade of the 1940s addition also fronting Bunnerong Road (post 1940).*

A previous development application for works at the subject site (DA 338/2021) was granted consent in December 2021 for alterations and additions to the existing building, including partial demolition, replacing the drive-through with new TAB area, sports bar and toilet facilities,

reconfigured internal layout comprising sports bar, enclosing side walls to the terrace, signage and associated works.

Approval is currently being sought for an amended Plan of Management under that consent as required by Conditions 61 and 62 to DA 338/2021. Construction of the approved works has commenced.

The applicant's Statement of Environmental Effects, prepared by Design Collaborative and dated June 2022 (201550.8S), notes that no changes are proposed to the existing/approved operations and management regime under DA 338/2021. The application is for works only. No changes are proposed to the operations of the pub. The hotel will continue to operate pursuant to DA 338/2021.

The SEE contends that while the proposed development involves a minor addition at the basement level (excavation is proposed to enlarge the basement by approx. 7 sqm to provide stair access from the ground floor), the proposal will not result in any intensification of use as no increase in publicly accessible floor space is proposed and no change in the approved operation and management regime is proposed.

Proposal

The application seeks consent for internal alterations to part of the ground floor and internal alterations and an addition to the basement level. The proposed works, designed by Paul Kelly Design, are summarised as:

- Demolition and internal alterations to the front bar, office and bottle shop at the ground floor.
- Reconfiguration and fit-out of part of the ground floor to provide new bar with bottle sales, new cool room, new office, new stair access to basement level, new partitions to entry to toilets, new console and partition to hotel entry off Bunnerong Road and ceiling alterations; and
- Demolition and internal alterations to the basement including removal of stairs from ground floor.
- Excavation and enlargement of the basement for proposed new internal stairs from ground floor; and
- Reconfiguration and fit-out of basement to provide new cool rooms and stairs.
- The existing keg chute along the eastern edge of the hotel will remain, with the addition of a Gyprock Fyrchek lining to internally fire-rate the keg chute.

The Heritage Impact Statement by NBRS Architecture contends that the proposed works involve removal of later, non-significant fabric only. No changes are proposed to the existing/approved external façades facing Bunnerong Road and Perry Street. The active frontage is maintained. No works are proposed to significant, original or early features.

A Geotechnical Investigation Report prepared by CMW Geosciences details the findings of an investigation of the subsurface conditions at the site and provides recommendations in relation to foundations, site classification, together with general earthworks.

A Structural Statement prepared by Structural Engineering Services (SES) accompanies the application for the proposed additions and alterations (as shown on architectural drawings 1101, 1102, 0101, 0102, Rev. A, dated 06.05.2022 prepared by PKD Pty Ltd). SES contends the proposed excavation works - to ensure no impact on the structural integrity of the existing building and existing heritage façade - are structurally achievable provided SES's structural details, drawings and instructions, which are to be completed after DA approval, are adhered to.

Controls

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

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

The Heritage section of Randwick Development Control Plan 2013 provides Objectives and Controls in relation to heritage properties. The objectives relating to this development include those set out in the following DCP Sections:

- **Part B** General Controls B2 Heritage 2 – Development Controls 2.13 Commercial Properties Controls Heritage Items and Contributory Buildings Original forms, details, materials and finishes must be retained, including original shopfronts, original suspended awnings and open balconies at first floor level.
- **Part D** – Commercial and Industrial Matraville Centre - The Matraville Centre will evolve into a lively local village that is compact and pedestrian friendly, with plenty of choice in housing styles and affordability, great specialty shopping, and enjoyable walks to parks, sporting and outdoor play areas. The built form will be unified by consistency in building heights and setbacks from the street. New development will address the street and complement the scale and form of the centre. Quality architecture with an emphasis on environmental performance will ensure improved residential and commercial opportunities for the people of Matraville. Contemporary new buildings will compliment older buildings and add uniquely artistic features that express Matraville's own special identity.

Comments

Whilst the proposed works are located within the original, c.1928 portion of the hotel, the area has been heavily modified and contains later, non-significant fabric. The proposed works do not involve the removal of any early or original significant fabric. No changes are proposed to be made to the external fabric of the hotel, nor to its first floor. Extent original details, materials and finishes are to be retained.

The height, setbacks and overall form of the Matraville hotel will remain unaltered as part of the proposed works, ensuring the character of the Matraville Centre is retained. It is noted that the original features of the hotel that help express Matraville's ongoing historical character will be retained and remain unaltered.

Internally, the new stair and material fit outs to the basement and ground levels are to be identifiable as new construction and should not impact on the ability to read, identify and understand significant fabric in context. The proposed works should not alter an understanding of the significant spaces and features in other areas of the hotel.

All proposed works are located internally and, as such, will not be visible from the public domain, and will not impact on views to and from the original hotel building. The site will continue to make a positive contribution to the streetscape along Bunnerong Road and Perry Street.

The proposed works are isolated to the ground floor and basement level of the hotel, and do not involve any works to the second storey of the original portion of the hotel building, nor does the proposal involve alterations or additions to any early or original significant fabric. The proposal involves changes only to later or modified features.

It is noted that the minor addition of floor space (approx. 7sqm) at the basement level is to provide an internal stair from the ground floor and will not adversely impact significant heritage fabric. It is noted that the minor demolition works are aimed at improving the amenity and condition of the building, to allow for the continuing historical use of the place as a hotel. The removal of later, non-significant fabric will not diminish the overall significance of the heritage item.

All minor demolition works' are internal and are not visible from the exterior. As such, the works will have no impact upon the contribution the hotel makes to the surrounding streetscapes. The overall form, external walls and all other original and early fabric and features will be retained unaltered.

There will be no change to the appreciation or interpretation of the group of five terraces from the public domain. All original and early significant fabric will be retained, and as such, the works will not have a detrimental impact on the established heritage significance of the subject site.

The proposed minor addition, as documented, are acceptable interventions as all original heritage fabric associated with the hotel, its legibility, and views to and from the public domain, will be retained.

Recommendation

The following conditions should be included in any consent:

- *In the unlikely event that historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potential extent and significance is undertaken, and the NSW Heritage Office notified under the requirements of the Heritage Act.*
- *A detailed assessment of the condition of the building/s located at 144-148 Perry Street, Matraville, shall be carried out by the Heritage Structural Engineer prior to commencing works; at suitable intervals during the course of the excavation and construction work and; prior to issuing an occupation certificate for the development, which provides details of the condition of the subject building/s and which details any impacts or changes to the building which may be a result of the excavation and construction work. A copy of the assessments and reports must be provided to the PCA, Council and owners of the subject properties.*

1.2. Development Engineer

An application has been received for Internal alterations to Matraville Hotel, (front bar, office, bottle shop), ground floor internal alterations and minor addition involving excavation at the basement level for new stair.at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Paul Kelly Design Rev C dated 26 May 2022;
- Statement of Environmental Effects by Design Collaborative dated June 2022
- Detail & Level Survey by CMS Surveyors Pty Ltd
- Geotechnical Comments by CMW Geosciences dated 3rd June 2022

General Comments

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

Parking Comments

The proposal will be reconfiguring the existing front bar area, office and cool room. The plans indicate the bar area will increase in area by 79.23m² (from 162.53m² to 241.76m²), however there are no changes in the overall floor area of the hotel itself with the additional area being obtained from the removal of the bottle shop and a reduction in the size of the cool room and relocation of some stairs

Part B7 of the DCP states that parking be provided for hotels at the rate of 1 space per 10 persons as specified on the liquor licence or if no number is specified then 1 space per 6m² of bar, lounge, etc.

A copy of the liquor licence is provided with the application and as it does not provide details on the maximum number of patrons the latter rate is technically applicable which would result in a requirement for an additional 13 spaces (for the additional 79.32m²). This is partially offset by 1-2 spaces by the reduction in the area of the bottle shop which will now be restricted to one end of the bar however the proposal does not and cannot provide any additional parking.

The hotel carpark currently provides in the order of 11 spaces and is not able to provide additional spaces due to geometric constraints of the site. Additional parking would require significant alterations to the site which are beyond the scope of this application.

It should be noted that the DCP parking rate is generic and onerous in this instance as the actual length of serving bar area will not change significantly. The application is unlikely to lead

to any significant increase in patrons but would instead improve spacing for existing patrons. The hotel itself is not increasing in gross floor area.

In consideration of these factors it is considered any additional parking impacts are likely to be minimal and imperceptible. There are therefore no objections to the proposal on parking grounds.

Groundwater Comments

The Geotech report indicates groundwater was encountered at a depth of 1.7m below ground level. The additional excavation for the stairs in the basement will therefore likely intersect with the water table as the basement level is approximately 1.8 m below the level of the footpath.

Appropriate waterproofing of the new basement extension for the stairway will therefore need to be undertaken. This has been conditioned.

Responsible officer: Louis Coorey, Senior Environmental Planning Officer

File Reference: DA/295/2022

Development Consent Conditions (Commercial)



D59/22

Folder /DA No:	DA/295/2022
Property:	144-148 Perry Street, MATRAVILLE NSW 2036
Proposal:	Internal alterations to Matraville Hotel, (front bar, office, bottle shop), ground floor internal alterations and minor addition involving excavation at the basement level for new stair.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated
DA 00 0 00 Rev B	PK Design	24.05.22
DA 00 0 01 Rev B	PK Design	24.05.22
DA 00 1 01 Rev B	PK Design	24.05.22
DA 00 1 02 Rev B	PK Design	24.05.22
DA 00 2 01 Rev B	PK Design	24.05.22
DA 00 3 01 Rev C	PK Design	26.05.22
DA 00 3 02 Rev C	PK Design	26.05.22
DA 001 1 01 Rev C	PK Design	26.05.22
DA 001 1 02 Rev C	PK Design	26.05.22

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

Heritage conservation

3. In the unlikely event that historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potential extent and significance is undertaken, and the NSW Heritage Office notified under the requirements of the Heritage Act.
4. A detailed assessment of the condition of the building/s located at 144-148 Perry Street, Matraville, shall be carried out by the Heritage Structural Engineer prior to commencing works; at suitable intervals during the course of the excavation and construction work and prior to issuing an occupation certificate for the development, which provides details of the condition of the subject building/s and which details any impacts or changes to the building which may be a result of the

Section 7.12 Development Contributions

5. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$484,550 the following applicable monetary levy must be paid to Council: \$4,845.50.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6999 or 1300 722 542 for the indexed contribution amount prior to payment.

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Long Service Levy Payments

6. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

Sydney Water Requirements

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

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

The Sydney Water Tap in™ online service replaces the Quick Check Agents as of 30 November 2015

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

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

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

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

Groundwater

8. As the site is affected by groundwater or fluctuating water table (including during the course of construction), the following requirements must be satisfied:
- a) Groundwater and sub-soil drainage must not be collected and connected or discharged to the site stormwater system or to Council's street gutter or drainage system, unless specific written approval has been obtained from Council beforehand, and
 - b) The new basement area of the building containing the proposed stairs, shall be tanked and/or waterproofed
 - c) Details of the proposed methods of managing groundwater, tanking and waterproofing must be prepared by a suitably qualified and experienced Hydrogeological Engineer and be submitted to and approved by the Principal Certifier, prior to issuing the construction certificate. **A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Principal Certifier**

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Compliance with the Building Code of Australia & Relevant Standards

9. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifier', as applicable.

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These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

Certification and Building Inspection Requirements

10. Prior to the commencement of any building works, the following requirements must be complied with:

- a) a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*;
- c) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Construction Site Management Plan

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

- location and construction of protective site fencing / hoardings;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- details of proposed sediment and erosion control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- location and size of waste containers/bulk bins;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details;
- provisions for temporary sanitary facilities.

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

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

Demolition Work Plan

12. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/work health and safety requirements.

The Demolition Work Plan must be submitted to the Principal Certifier, not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.

Construction Noise & Vibration Management Plan

13. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.

- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.

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

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

Public Liability

14. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the *Principal Certifier* and Council.

Public Utilities

15. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.

16. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

17. The area to be excavated shall be tested for potential contaminants prior to substantive works being undertaken. Should any contaminants be found a detailed site investigation is required to be carried out inclusive of a site remediation strategy be formulated and submitted to Council for approval, prior to any works being undertaken.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Inspections during Construction

18. Building works are required to be inspected by the *Principal Certifier*, in accordance with section 6.5 of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Building & Demolition Work Requirements

19. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2011;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Randwick City Council Asbestos Policy (adopted 13 September 2005).

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

Removal of Asbestos Materials

20. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:
- Occupational Health & Safety legislation and WorkCover NSW requirements
 - Randwick City Council's Asbestos Policy
 - A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifier.
 - On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
 - Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifier.

- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Excavations, Back-filling & Retaining Walls

21. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Details of proposed retaining walls, shoring, piling or other measures are to be submitted to and approved by the Principal Certifier.

Support of Adjoining Land

22. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

Sediment & Erosion Control

23. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom.

Details must be included in the Construction Site Management Plan and a copy must be provided to the Principal Certifier and Council. A copy must also be maintained on site and be made available to Council officers upon request.

Temporary Site Fencing

24. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site throughout demolition, excavation and construction works, to the satisfaction of Council, in accordance with the following requirements:
- a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), or heavy-duty plywood sheeting (painted white), or other material approved by Council.
 - b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
 - c) All site fencing and hoardings must be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

- d) An overhead ('B' Class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:
- materials are to be hoisted (i.e. via a crane or hoist) over a public footway;
 - building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment;
 - it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or occupants upon adjoining land;
 - as may otherwise be required by WorkCover, Council or the *Principal Certifier*.

Notes:

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

Public Safety & Site Management

25. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- c) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

Note: It is an offence under the Protection of the Environment Operations Act 1997 to cause or be likely to cause 'pollution of waters', which may result in significant penalties and fines.

- d) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open outwards into the road or footway.
- e) Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.
- f) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works, and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

Site Signage

26. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifier*,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jackhammers, pile-drivers, vibratory rollers/compactors or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 1.00pm only • Saturday - No work permitted • Sunday & public holidays - No work permitted
Additional requirements for all development	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

Road / Asset Opening Permit

28. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the '*Principal Certifier*' issuing an '*Occupation Certificate*'.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

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

Fire Safety Certificates

30. Prior to issuing an interim or Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

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

Council's Infrastructure, Vehicular Crossings, street verge

31. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
32. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

Sydney Water Certification

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

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

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

Noise Control Requirements & Certification

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

The operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Fire Safety Statements

35. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council (at least on an annual basis) in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

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

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