

Randwick Local Planning Panel (Public) Meeting

Thursday 8 December 2022



RANDWICK LOCAL PLANNING PANEL (PUBLIC)

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting will be held online via Microsoft Teams on Thursday, 8 December 2022 at 1pm

Declarations of Pecuniary and Non-Pecuniary Interests

Address of RLPP by Councillors and members of the public

Privacy warning;

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

Development Application Reports

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Roman Werezczynski
DIRECTOR CITY PLANNING

Development Application Report No. D72/22

Subject: 39 Dudley Street, Coogee (DA/584/2021)


Executive Summary

Proposal:	Alterations and additions to the existing dwelling house including new rear ground and first floor additions
Ward:	East Ward
Applicant:	63 Architecture Pty Ltd
Owner:	N Meesen & M Calao
Cost of works:	\$484 379
Reason for referral:	The dwelling is a Heritage Item; and 10 or more unique submissions by way of objection were received

Recommendation

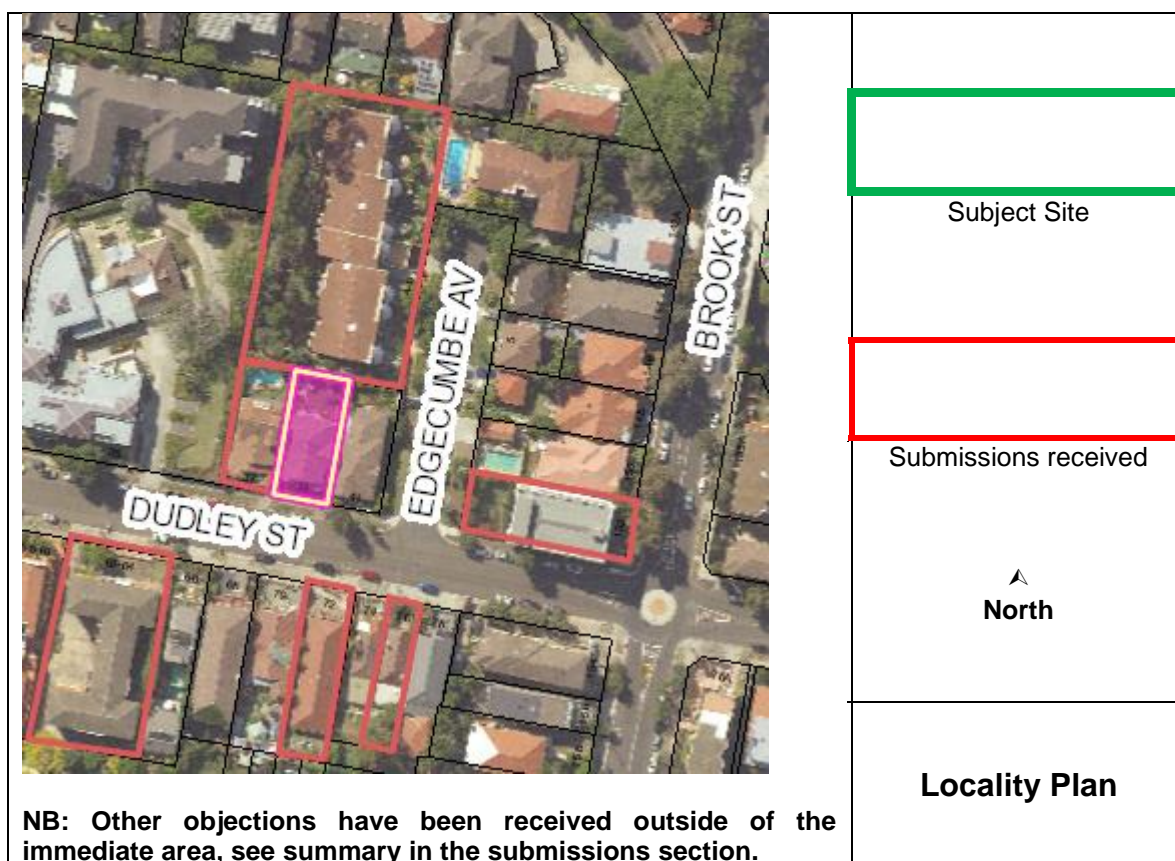
That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 584/2021 for alterations and additions to the existing dwelling house including new rear ground and first floor additions at No. 39 Dudley Street, Coogee, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/584/2021 - 39 Dudley Street, COOGEE

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1. Executive summary

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

- The development involves alterations and additions to an existing dwelling house that is listed as a heritage item; and
- More than ten (10) unique submissions by way of objection were received.

The proposal seeks development consent for alterations and additions to the existing dwelling including partial demolition of the rear of the dwelling to provide for a new two storey rear addition.

The application has been amended as originally lodged to address concerns raised by Council's Heritage Planner and to improve view sharing from the adjoining property at 37 Dudley Street. The amendments reduce the size and overall height of the first floor level, delete the side blade walls to the western wall and edge of balcony at the rear, provide for a privacy screen to western side of rear balcony, and changes to window openings on elevations. The final plans are Revision F, dated 17/8/2022.

The key issues associated with the proposal relate to the site and existing development being listed as an item of local heritage significance pursuant to RLEP 2012 and the impact of the proposed works upon the significance of the heritage item/heritage conservation area and the impact to existing views from the adjoining property.

The proposal is recommended for approval subject to non-standard conditions that relate to Heritage Conservation.

2. Site Description and Locality

The site is known as 39 Dudley Street Coogee and is Lot B in DP 3011922.

The site has a frontage of 13.41m depth of 31.09m and area of 422sqm. The site is on the northern side of Dudley Street and at present contains a single storey dwelling

The locality is residential in nature and contains a mixture of single and two storey dwellings and mulit unit housing developments.

See extract of survey and street photo below.

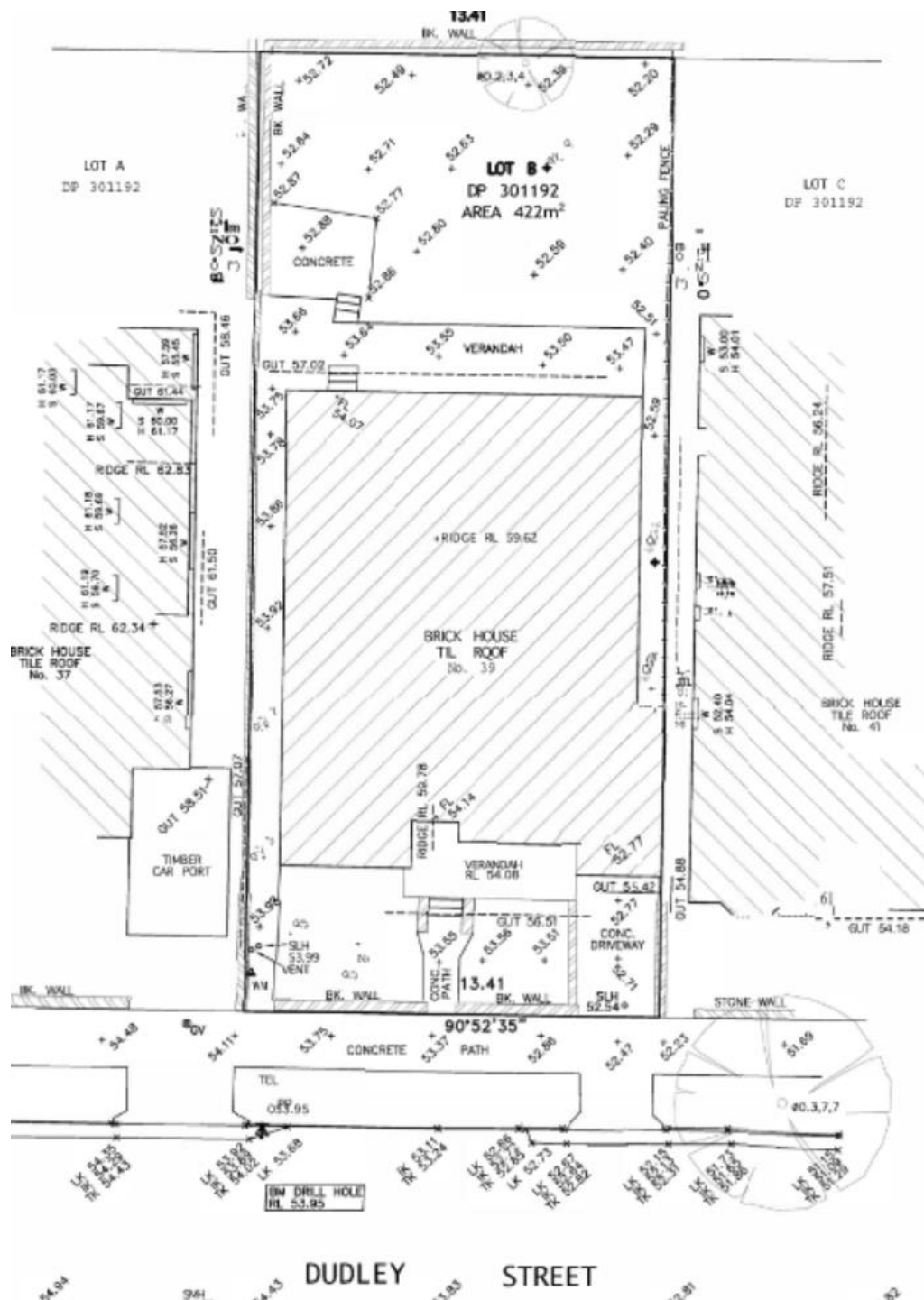


Figure 1. Survey extract

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Photo 1. Existing dwelling as viewed within the street.

3. Relevant history

Since the lodgement of the application the proposal has been amended at Council's direction to reduce the size and overall height of the first floor level, delete the side blade walls to the western wall and edge of balcony at the rear, provide for a privacy screen to western side of rear balcony, and changes to window openings on elevations.

A meeting was held between the applicant and Council's Heritage Planner in relation to the above matters and as a result the final plans Revision F, dated 17/8/2022 were submitted. The assessment is based on the amended plans.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing dwelling house consisting of the partial demolition of the rear of the dwelling to accommodate a two storey addition.

The proposed addition will comprise at ground level a family room, master bedroom and en suite bathroom with new steps to the rear yard level. An existing bathroom and bedroom in the dwelling are to be refurbished to include new fittings and built in wardrobes. New entry steps are proposed from the driveway to the entrance of the dwelling.

The upper level will contain a living and dining room, kitchen and rear balcony.

See proposed streetscape elevation below.

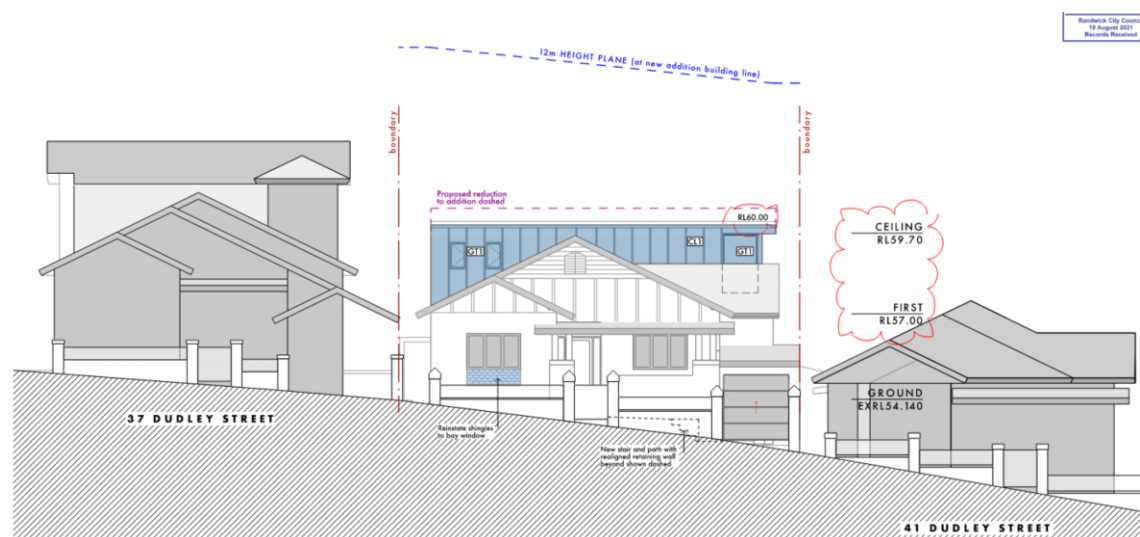


Figure 2. Proposed streetscape elevation

5. Notification

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

NB: The proposal has been the subject of two notification periods, one when the application was originally lodged and a second when the final amended plans, Revision F was received. The responses to the two notifications are summarized below.

Issue	Comment
<p>First notification responses</p> <p>5/152 Brook Street Coogee</p> <ul style="list-style-type: none"> -The roof profile is not in harmony with the adjacent buildings or the existing building, and the proposal is not in sympathy with the original built form, architectural style and character with this and the adjacent buildings. -The altered elevations have an adverse impact upon the streetscape and detract from the character and street appearance of the dwelling. -The addition to the adjoining building at 37 Dudley Street are set further back and are more in keeping with the original building design. <p>37 Dudley Street Coogee</p> <ul style="list-style-type: none"> -The proposal impacts their significant views to Wedding Cake Island. -The proposed first floor balcony will give rise to unacceptable acoustic privacy impacts associated with the use adjacent to the primary living area. 	<p>Amended plans have been requested by Council's Heritage Planner to reduce the scale and bulk of the addition and reduce the streetscape visibility. See comments in relation to second notification.</p> <p>The proposal has been amended in an attempt to maintain as much view as possible from the adjoining properties, with respect to View Sharing. See detailed assessment in the Key Issues discussion.</p> <p>The proposal has been amended to provide for a privacy screen to the western side of the balcony. See further comments in relation to the second notification of the amended plans.</p>

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Issue	Comment
<p>2/62 – 64 Dudley Steet Coogee</p> <p>-Concerns in relation to the impact to the heritage character of the building and surrounds.</p> <p>8/62 -64 Dudley Street Coogee</p> <p>-The building is a significant heritage item in the local community and the proposal does not compliment or protect the significant character of this heritage item.</p> <p>-The design will have a significant impact upon the street.</p> <p>-The proposal is not consistent with the scale and form of the heritage item at 41 Dudley Street.</p> <p>2/72 Dudley Street Coogee</p> <p>-The additions will impact the owner of 41 Dudley Street by blocking out natural light and reducing privacy.</p> <p>5/72 Dudley Street Coogee</p> <p>-The proposed addition is out of character with the existing dwelling which is a heritage item.</p> <p>-The second storey will impede district views and skyline towards the northern area of Coogee and Clovelly.</p> <p>76 Dudley Street Coogee</p> <p>-This proposal is an affront to the existing and</p>	<p>The proposal has been amended at the direction of Council's Heritage Planner. The amended plans considerably reduces the scale and bulk of the proposed upper level and reduces its impact on the main roof form, reducing its streetscape visibility and dominance in relation to the original form and massing of the dwelling.</p> <p>The original proposal has been amended to as required by Council's Heritage Planner to reduce the impact upon the character of the existing heritage item.</p> <p>The proposal has been amended, see comments in relation to the second notification for the amended plans.</p> <p>The proposal has been amended at the direction of Council's Heritage Planner, see comments in relation to the second notification period.</p> <p>The adjoining property at No.41 will maintain natural light and solar access in accordance with the DCP Solar Access controls. proposal is reasonable in terms of development and compliance with the planning controls and it is not reasonable to expect that outlook views which are only as a result of a single story building being in original condition will be maintained.</p> <p>Within the upper level eastern side elevation have a lower sill level above the ridge height of the adjoining dwelling at 41 Dudley Street and overlooking will be across the roof of that dwelling not into any private living areas.</p> <p>The proposal has been considered by Council's Heritage Planner who has not raised any concerns that the amended plans will detract from the heritage characteristics and values of the building or the immediate surrounds.</p> <p>Second level to dwellings are allowed for in the planning controls and existing district and outlook views that are not of high amenity value that trigger a detailed view loss assessment cannot be expected to be maintained.</p>

Issue	Comment
<p>adjoining dwellings.</p> <p>-The proposal is inconsistent with the DCP in relation to heritage requirements.</p>	<p>The proposal is consistent with the DCP Heritage Controls in relation to Scale and Form.</p>
<p>79 Dudley Street Coogee</p> <p>-The proposal is in contrast to and does not harmonise with the style and character of the original building.</p>	<p>The proposal has been considered by Council's Heritage Planner who has not raised any concerns that the amended plans will detract from the heritage characteristics and values of the building or the immediate surrounds.</p>
<p>4/138 Beach Street Coogee</p> <p>-Objects to the unsympathetic addition to the intact heritage dwelling.</p>	<p>The proposal has amended at the direction of Council's Heritage Planner who has not raised any concerns that the amended plans will detract from the heritage characteristics and values of the building or the immediate surrounds.</p>
<p>4-8 Edgecumbe Avenue Coogee</p> <p>-The proposal does not complement the existing streetscape character of the area and the heritage significance of this item.</p> <p>-The addition is not in sympathy with the original built form and character of the dwelling or the adjacent dwellings.</p>	<p>The proposal has been considered by Council's Heritage Planner who has advised that the amended plans and subject to consent conditions, there are no heritage objections to the proposed two storey rear addition to the heritage item.</p> <p>Alterations and additions to heritage items are not required to mimic the existing building design and a clear distinction between old and new portions of the building is required to enable the existing building form and character to be acknowledged. As noted above the overall design of the proposal as amended has been considered by Council's Heritage Planner who has advised that there are no heritage objections to the proposal.</p>
<p>1 Berwick Street Coogee</p> <p>-The proposal will adversely impact the heritage item.</p> <p>-The proposal does not comply with the DCP in relation to the heritage controls in that the addition is not sited to the rear of the building to minimise the impact on the streetscape and does not respect the existing character values.</p> <p>-The proposal has an impact upon the views of the immediate neighbours and neighbouring residents and also pedestrians.</p>	<p>The proposal has been considered by Council's Heritage Planner who has not raised any concerns that the amended plans will detract from the heritage characteristics and values of the building or the immediate surrounds.</p> <p>The proposal has been amended at the direction of Council's Heritage Planner to reduce the scale of the development and impact upon the heritage item. See comments below in relation to the second notification.</p> <p>The impact upon the primary views from the adjoining property at No.37 Dudley Street have been assessed in the View Loss Assessment</p>

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Issue	Comment
<p>-There is a privacy impact of the living room balcony which will overlook No.41 Dudley Street .</p> <p>-There is an impact on No.41 Dudley Street in relation to a reduction in sunlight.</p> <p>-The amended proposal includes changes that are negligible and desultory.</p>	<p>in the Key Issues in Section 8.1. As to the visual outlook view within the local streetscape, as noted in the comments from Council's Heritage Planner the streetscape visibility is acceptable.</p> <p>The proposed first floor balcony is off the rear living and dining area and has a depth of 2.87m and is at a higher level than the roof ridge at No.41 Dudley Street and any overlooking will be across the roof of that dwelling towards the view and not directly orientated into that dwelling. The proposed balcony is acceptable in terms of visual and acoustic privacy as it is not excessive in size and does not extend across the whole rear of the dwelling being only at the living room portion of the upper level.</p> <p>Solar access to the adjoining properties is maintained in accordance with the DCP Solar access controls.</p>
<p>12 Abbott Street Coogee</p> <p>-The new development is not harmonious and does not complement the existing heritage streetscape.</p> <p>-The upper floor addition is not contained with the current structure and significantly alters the original roof line.</p>	<p>The amended plans fully address the concerns raised by Council's Heritage Planner, who as noted above is satisfied that there will not be any adverse impact upon the heritage item in terms of maintain the heritage values.</p> <p>The proposal as originally submitted has been amended at the direction of Council's Heritage Planner who notes that the amended plans comply with Council's Heritage DCP and as noted above Council's Heritage Planner advises that the proposal will not detract from the heritage values of the item.</p>
<p>9/152 Brook Street Coogee</p> <p>-39 Dudley Street is a local heritage item that is significant to the local community, and the impact of the proposal upon the heritage item, at 41 Dudley Street needs to be addressed. The design and character of the development does not compliment the existing streetscape character and significant of this item.</p> <p>-The addition at 37 is setback further and is in keeping with the original design.</p> <p>-The amended plans do not adequately address the previous issues raised in their</p>	<p>There is no requirement that upper level additions be contained wholly with the roof form of the existing dwelling.</p> <p>The proposal has been considered by Council's Heritage Planner in detail who has advised that the amended plans, and subject to consent conditions, do not raise any heritage objections in relation to the existing item and the overall character of the locality.</p> <p>The proposed upper level to the dwelling is generally consistent with the existing upper level at No.37 Dudley Street and complies with the DCP rear setback control. It is also noted that the setback of one dwelling, in this case No.37 Dudley Street, does not establish a pattern of rear setback, an established pattern is of a number of consistent rear setbacks, not</p>

Issue	Comment
<p>original objection.</p> <p>340 Arden Street Coogee</p> <p>-The proposed addition is unsympathetic to the original building design and will detract from rather than enhance the setting of neighbouring dwellings.</p> <p>Coogee Precinct Committee</p> <p>-Objects to the proposal due to the streetscape and heritage impacts.</p> <p>139 Clovelly Road Clovelly</p> <p>-The new second storey dominates and competes with the heritage fabric and the changes to the roofline are not consistent with the Council heritage guidelines and should be set further back.</p> <p>8 Armour Avenue Maroubra</p> <p>-No.39 Dudley Street is a local heritage item which means it must be left protected and intact .</p> <p>-The design of the development does not retain the heritage significance of the item and will detract from the existing streetscape character.</p> <p>Randwick Heritage Action Group</p> <p>-The proposal is not in keeping with the heritage significance of this heritage item and detracts from the heritage character and street appearance of the dwelling and the adjoining dwellings and does not satisfy the objectives of the Randwick Local Environmental Plan.</p> <p>Member for Coogee</p> <p>-Copy provided of the objection from the Randwick Heritage Action Group. Linda Avramides</p> <p>Second notification responses</p> <p>37 Dudley Street Coogee</p> <p>NB: a number of submissions have been made from the owners of this property during the progress of the application, and the final amended plans. A final submission which</p>	<p>one alone.</p> <p>As noted the amended plans have reduced the overall bulk of the building and are compliant in terms of the heritage controls.</p> <p>The proposal has been considered by Council's Heritage Planner who has not raised any concerns that the amended plans will detract from the heritage characteristics and values of the building or the immediate surrounds.</p> <p>The proposal has been considered by Council's Heritage Planner who has not raised any concerns that the amended plans will detract from the heritage characteristics and values of the building or the immediate surrounds.</p> <p>The proposal has been amended to address concern raised by Council's Heritage Planner in relation to the position of the upper level.</p> <p>It is not reasonable to expect that this dwelling be quarantined from any potential development and be retained intact in its original condition.</p> <p>The proposal has been considered by Council's Heritage Planner who has not raised any concerns that the amended plans will detract from the heritage characteristics and values of the building or the immediate surrounds.</p> <p>The proposal has been amended at the direction of Council's Heritage Planner who has advised that the amended plans for the proposed alterations and additions to the dwelling will not detract from the heritage characteristics and values of the building or the immediate surrounds</p> <p>Noted.</p>

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Issue	Comment
<p>supersedes the previous is dated 12th September 2022.</p> <p>-The first floor balcony will give rise to unacceptable acoustic privacy impacts associated with its use adjacent to the primary living area, the orientation of the balcony and size can accommodate large gatherings.</p> <p>-The proposal has an impact upon their water views to the ocean and Wedding Cake Island which are significant views of high quality and value in Tenacity terms.</p> <p>-A detailed view loss analysis has been prepared and submitted with this submission, which recommends that the northern setback of the rear balcony be increased to achieve better view sharing and also that the rear setback of the dwelling be increased to 9m to ensure consistency with the neighbouring buildings and the predominant building line.</p> <p>5/152 Brook Street Coogee</p> <p>-The amended plans do not address issues in relation to the impact to the existing dwelling, and the adjoining dwelling at 41 Dudley Street.</p> <p>2/62 – 64 Dudley Steet Coogee</p> <p>-Reiterating their concerns with their original submission that this DA needs to be considered to ensure that any approval not diminish the heritage characteristics, style and appeal of this heritage listed building.</p>	<p>All noted, the final submission from the owners of No.37 is considered as part of this development assessment.</p> <p>The proposed first floor balcony is off the rear living and dining area and has a depth of 2.87m and includes an angled privacy screen to the western side. The proposed balcony is acceptable in terms of visual and acoustic privacy as it is not excessive in size and does not extend across the whole rear of the dwelling being only at the living room portion of the upper level. The privacy screen to the western side will provide for a visual and acoustic barrier that will maintain a reasonable level of amenity to the adjoining residents.</p> <p>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 reasonable on the basis of view sharing.</p> <p>See discussion in the View Loss Assessment in Section 8.1. The concept of view sharing recognises that in some instances views are impacted and it is often unrealistic to expect that all existing views are able to be maintained as part of a reasonable development. The foundation of view sharing is not all existing views maintained at all times in perpetuity.</p> <p>The proposal as amended has been considered by Council's Heritage Planner who has advised that the amended proposal considerable reduces the scale and bulk of the proposed upper level and reduces its impact on the main roof form, reducing its streetscape visibility and dominance in relation to the original form and massing of the dwelling</p> <p>The amended plans have considerably reduced the scale and height of the building, which have reduced the impact of the alterations and additions to the existing dwelling and the streetscape visibility. Council's Heritage Planner has not raised any concerns that the amended plans will detract from the heritage characteristics and values of</p>

Issue	Comment
8/62 -64 Dudley Street Coogee - Reiterates their original objections and the amendments are very minor and do not change the impact of the development upon the item.	the building or the immediate surrounds, and as amended will not detract from the existing streetscape as the overall bulk and scale of the addition will not dominate the existing building form and the primary streetscape presentation of the façade of the dwelling. The proposed amendments have been considered by Council's Heritage Planner who has advised that the amended proposal considerably reduces the scale and bulk of the proposed upper level and reduces its impact on the main roof form, reducing its streetscape visibility and dominance in relation to the original form and massing of the dwelling and will not detract from the heritage characteristics and values of the building or the immediate surrounds
139 Clovelly Road Randwick -The amendments are very minimal in size and scope to the original proposal and will still impact the heritage streetscape and destroy the heritage value of the property.	
1 Berwick Street Coogee -The amended plans contain changes that are negligible and desultory and remains inconsistent and out of character with the heritage nature of the building.	The amendments have addressed the issues raised by Council's Heritage Planner who has advised that there are no objections to the proposal in relation to heritage issues. As noted above, the amendments have addressed the issues raised by Council's Heritage Planner who has advised that there are no objections to the proposal in relation to heritage issues.

6. Relevant Environment Planning Instruments

6.1. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity 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, with particular regards to not impacting the significance of the dwelling which is a Heritage Item.

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

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1	0.52:1	Yes
Height of Building (Maximum)	9.5m	7.4m	Yes

6.1.1. Clause 5.10 - Heritage conservation

The site is occupied by a single storey residence listed as a heritage item under Randwick LEP. Immediately to the east of the site on the corner of Edgumbe Avenue, is no.41 Dudley Street, also listed as a heritage item. Immediate to the west of the site is no.37 Dudley Street which has

an upper level addition apparently approved as a 1993 building application. The Heritage NSW database sheet for the building identifies its significance as follows:

No.39 Dudley Street demonstrates historical, aesthetic and representative significance at local level being a typical, yet substantially intact example of a dwelling in the Inter-War bungalow style which retains its original layout and form and many of its original architectural features. It illustrates the pattern of subdivision and development of Coogee during the early twentieth century.

At the Ordinary Council Meeting of 26 March 2019, it was resolved to proceed with an amendment to Randwick LEP 2012 to create a new heritage conservation area 'Edgecumbe Estate' heritage conservation area. The new heritage conservation area is to include nos. 37, 39 and 41 Dudley Street, Coogee, nos. 142A, 144, 146, 148, 150 and 152 Brook Street, Coogee and no.5 Edgecumbe Avenue, Coogee. The proposed Edgecumbe Estate heritage conservation area surrounds the site. The proposal has been considered by Council's Heritage Planner who has advised that the final amended drawings, Revision F, have considerably reduced the scale and bulk of the proposed upper level, reducing its impact on the main roof form, reducing its streetscape visibility and reducing its dominance in relation to the original form and massing of the dwelling. These amended drawings are generally consistent with DCP Controls in relation to Scale and Form, given the constraints of the site and the original form of the dwelling. Subject to consent conditions, there are no heritage objections to the proposed two storey rear addition to the heritage item.

Several conditions of consent are included in relation to;

- a) Care to be taken in relation to avoiding impact to existing brickwork,
- b) Rendering of side wall will not be approved,
- c) Salvaging of decorative fretwork and low timber piers for reinstallation at the rear of the dwelling,
- d) Preparation of a salvage plan to ensure that materials and remnant components of significant heritage fabric are conserved,
- e) A digital photographic archival recording of the property prepared,
- f) Changes to the finish of the upper level and roof to be more recessive,
- g) Details of the proposed paint scheme being submitted to an approved by Council,

See Appendix 1 for detailed comments from Council's Heritage Planner.

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 'Matters for Consideration'	Comments
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposed development is consistent with the dominant character in the locality. The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in 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 in terms of height to reduce the visual impact to the existing building.

Council's Heritage Planner has advised that the amended plans have considerably reduced the scale and bulk of the proposed upper level which reduces the impact on the main roof form and the streetscape visibility which therefore reduces its dominance in relation to the original form and massing of the dwelling.

Subject to the consent conditions there are no heritage objections to the proposed two storey rear addition to the heritage item.

Refer to the heritage referral in Appendix 1.

View Loss Assessment

Submissions have been received from the owners of the adjoining property at 37 Dudley Street raising concerns to the impact that the development may have upon the existing views available from their property, in particular existing views to Wedding Cake Island.

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*

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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 adjoining owners of 37 Dudley Street have provided a view loss assessment as part of this submission and the applicant has also provided a response, including a comparison with the amendments suggested by the adjoining owner and the final amended plans Revision F.

The analysis includes photomontages of the existing views and the impact to those views as a result of the proposed development, including the suggested amendments. The view impacts photos have been prepared utilising Digital Line.

The photomontages that are for Revision F of the plans are highlighted in pink.

See relevant extracts below and detailed assessment. View photos are provided at various points from within No.37 Dudley Street and include the existing views and impacts from the proposed development and suggested amendments by the adjoining owners.



Photo 2. Existing view from ground floor living space and kitchen of No.37.



Photo 3. Proposed view impacts from ground floor living space and kitchen.

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Photo 4. Existing view from rear balcony.



Photo 5. View impact from the rear balcony which includes a suggested amendment to the rear eastern corner of the roof.



Photo 6. View impact from the rear balcony with the final version of plans, Revision F.



Photo 7. Existing view from upstairs living space.

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Photo 8. Proposed view impact from upstairs living space, which includes a suggested amendment to the rear eastern corner of the roof.

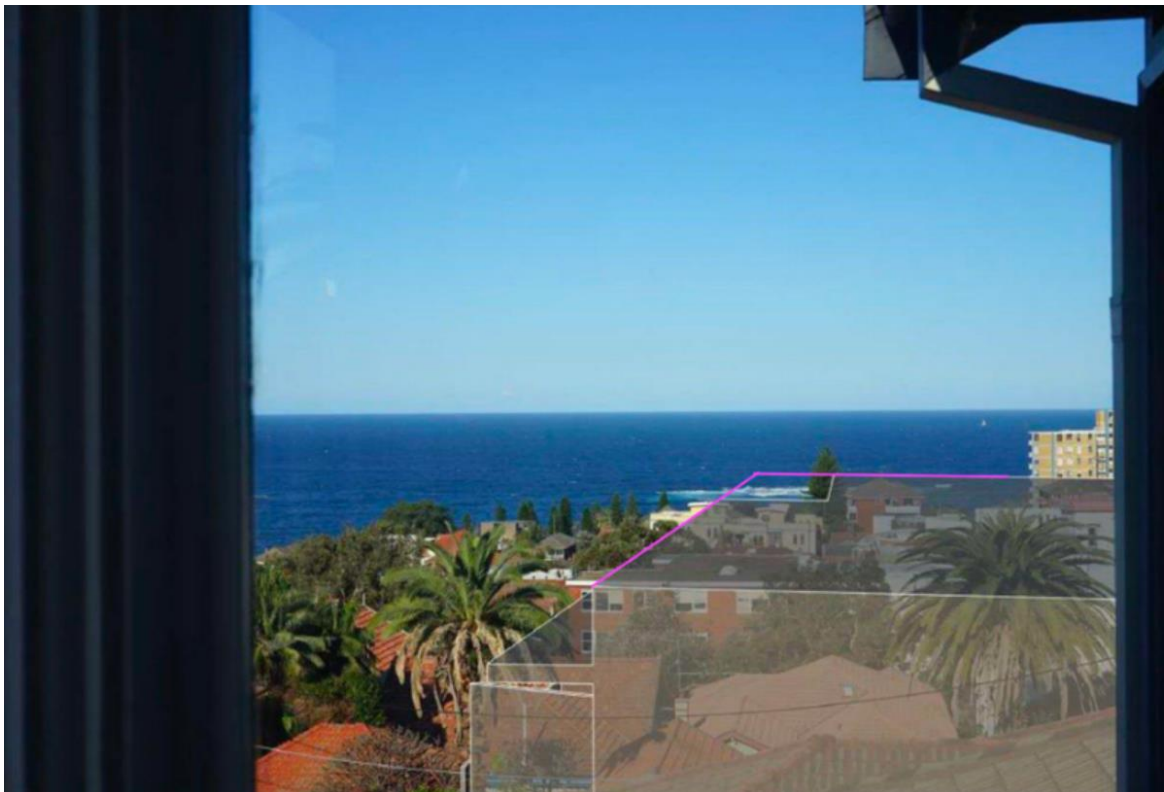


Photo 9. View impact from the upstairs living space with the final version of plans, Revision F



Photo 10. Existing view from upstairs living area.



Photo 11. Proposed view impact from upstairs living area, which includes a suggested amendment to the rear eastern corner of the roof.

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Photo 12. Proposed views impact from the upstairs living area with the final version of plans, Revision F



Photo 13. Existing view from upstairs bedroom.



Photo 14. Proposed view impacts from upstairs bedroom.



Photo 15. Existing view from upstairs bedroom.

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Photo 16. Proposed view impact to upstairs bedroom.



Photo 17. Existing view from rear garden.



Photo 18. Proposed view impact from rear garden.

Having regard to the four step assessment in the established view loss analysis and the information provided by the objector and applicant in the View Impact Assessment, and applicant's response, the view impacts are assessed as follows.

- a) The views available are ocean and horizon views and views to Wedding Cake Island to the east across the properties that are directly to the west, in particular from the immediately adjoining property at No.37 Dudley Street. The view to Wedding Cake Island is a high value iconic view. See photos above which demonstrate the existing views from this adjoining property.
- b) The views available are primarily from the upper level living area and bedroom windows of No.37. There are views also available from the rear ground level back yard. See photos above. It is noted that these views are all across the subject property and are available as the property at No.39 Dudley Street is in original condition and the alterations and additions done to No.37 were designed and undertaken on that basis and time. It may not be reasonable to expect that that existing view would not be vulnerable from future similar development.
- c) The view impacts are assessed as follows;

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Photo 19, (also Photo 3 above) View impact from the ground floor living space and kitchen.

Comment: The view impact from this point alone is severe as the ocean view, at this point, and the view to Wedding Cake Island which is a high value iconic view would be blocked.



Photo 20, (also Photo 5 above) View impact from the upstairs rear balcony with suggested amendment to rear eastern roof.

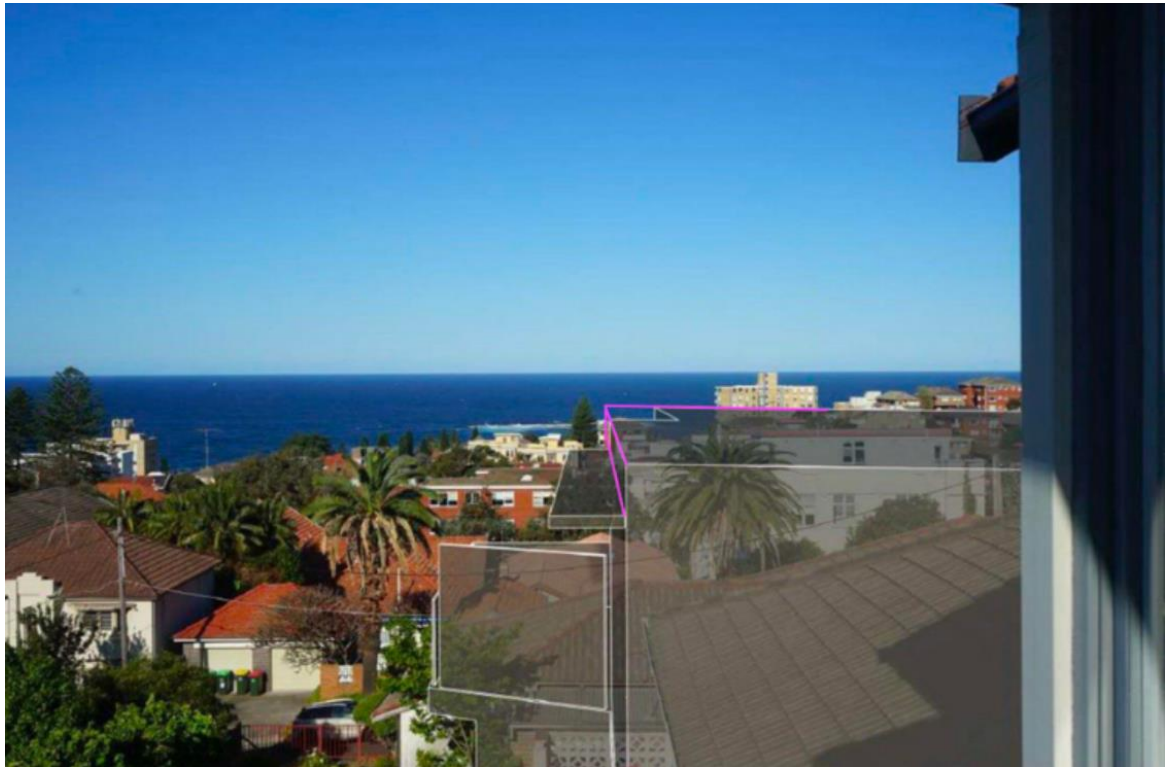


Photo 21, View impact from the upstairs rear balcony as a result of the final version of plans, Revision F

Comment: This view impact is moderate as most of the substantial view from the balcony to the Ocean and Wedding Cake Island is maintained.



Photo 22 (also Photo 8 above) View impact from upstairs living space with suggested amendment to rear eastern roof

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Photo 23, View impact from the upstairs living space as a result of the final version of plans, Revision F

Comment: This view impact is severe in terms of the impact to the view to Wedding Cake Island and it is noted that almost all of the Ocean view is maintained.



Photo 24, (also Photo 12 above) View impact from the upstairs living area, with suggested amendment to rear eastern roof



Photo 25, View impact from the upstairs living area as a result of the final version of plans, Revision F

Comment: This view impact is severe as the entire view of Wedding Cake Island is lost. It is noted that the ocean view is mostly maintained, however the iconic high value view to the island is not maintained.



Photo 26, (also Photo 14 above), View impact from upstairs bedroom window.

Comment: This view impact is severe as the entire view of Wedding Cake Island is lost. It is noted that the ocean view is mostly maintained, however the iconic high value view to the island is not maintained.



Photo 27, (also Photo 16 above), View impact from upstairs bedroom window.

Comment: This view impact is moderate as the views to the Ocean and across Wedding Cake Island are maintained.



Photo 28, (Also Photo 18 above), proposed view from rear garden area.

Comment: This view is mostly all maintained and there is minor view impact.

The view loss impacts as demonstrated by these photos, and the photomontages of the proposal are a mixture of minor, moderate and severe, depending on the location within the dwelling at No.37 Dudley Street. For the most part the existing ocean views are maintained, except at the ground level living areas. The severe view impacts are the views to Wedding Cake Island which are impacted at the ground floor living area, upstairs living area and at one of the upstairs bedroom windows. See photos 19, 23, 25 and 26 above.

The view loss impacts are otherwise moderate to minor from the upstairs rear balcony, upstairs living space, upstairs bedroom and rear garden. See photos 21, 27 & 28 above.

- d) Considering the reasonableness of the proposal and the impact upon the existing views from the adjoining property at No. 37 Dudley Street it must be acknowledged that the total existing views are enjoyed from that property as the subject dwelling at No. 39 Dudley Street remains in original condition as a single level dwelling. Those total views from all existing parts of the dwelling at No. 37 Dudley Street can only be retained in their entirety if the property is quarantined from reasonable development, that otherwise complies, and is not able to realise its potential as have other dwellings in the locality including the adjoining dwelling at No. 37 Dudley Street.

It is also important to note that the concept of view sharing does not imply that all existing views can be maintained when the development is acceptable in terms of complying with the LEP Standards and DCP controls and the building is of a skillful design that seeks to maintain views where possible. The view assessment also specifically notes that views across properties at side boundaries are often very hard to maintain, which is the consideration in this case.

The reasonableness of this proposal rests upon the test as to whether or not a more skillful design will maintain more of the existing views, and from all of the existing view points from within the dwelling at No. 37 Dudley Street, while still allowing the same amenity and development potential.

The proposal has been modified to reduce the size and overall height of the first floor level, delete the side blade walls to the western wall and edge of balcony at the rear, provide for a privacy screen to western side of rear balcony, and changes to window openings on elevations. These amendments were undertaken to address not only heritage considerations but also to reduce the impact to the adjoining property in relation to views across this subject site to the east.

The reasonableness of the proposal is further assessed and 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 also complies with the relevant controls of the Development Control Plan – Low Density Residential, in terms of landscaping, site coverage, and setbacks. Furthermore, the siting of the additions is restricted by the heritage listing and significance of the existing dwelling.

In terms of overall design, the alterations and additions to the dwelling are not unreasonable as the height is minimised by the low scale skillion type roof form, the resultant floor area of the building and FSR is less than the LEP controls, and as can be seen from the photos of the views in question and the visual impact assessment whilst some of the views are impacted to Wedding Cake Island there remains views to the island from the upstairs balcony and a bedroom, See photos 21 & 27.

Overall, it is concluded that the views impacts are acceptable for the following reasons;

- a) Views across side boundaries of adjoining properties are acknowledged as being difficult to maintain. Especially as in this case the existing views from the adjoining property at 37 Dudley Street are only available due to the single storey nature of the subject dwelling. 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, and as allowed for under the LEP and DCP standards and controls.

- b) The proposal provides for a reasonable and acceptable degree of view sharing which in the objectives of the Randwick Comprehensive Development Control Plan for Low Density Residential, Section 5.6, requires that development is sensitively and skilfully designed to maintain a reasonable amount of views from the development, neighbouring dwellings and public domain.
- c) The development complies with the relevant planning controls.

9. Conclusion

That the application to carryout alterations and additions to the existing dwelling at 39 Dudley Street Coogee 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 and streetscape

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Appendix 1: Referrals

1.1. Heritage planner

Summary

Amended drawings have considerably reduced the scale and bulk of the proposed upper level, reducing its impact on the main roof form, reducing its streetscape visibility and reducing its dominance in relation to the original form and massing of the dwelling. Amended drawings are generally consistent with DCP Controls in relation to Scale and Form, given the constraints of the site and the original form of the dwelling. Subject to consent conditions, there are no heritage objections to the proposed two storey rear addition to the heritage item.

The Site

The site is occupied by a single storey residence listed as a heritage item under Randwick LEP. Immediately to the east of the site on the corner of Edgecumbe Avenue, is no.41 Dudley Street, also listed as a heritage item. Immediately to the west of the site is no.37 Dudley Street which has an upper level addition apparently approved as a 1993 building application. The Heritage NSW database sheet for the building identifies its significance as follows:

No.39 Dudley Street demonstrates historical, aesthetic and representative significance at local level being a typical, yet substantially intact example of a dwelling in the Inter-War bungalow style which retains its original layout and form and many of its original architectural features. It illustrates the pattern of subdivision and development of Coogee during the early twentieth century.

The draft 'Edgecumbe Estate' heritage conservation area, which includes nos. 37, 39 and 41 Dudley Street, Coogee, nos. 142A, 144, 146, 148, 150 and 152 Brook Street, Coogee and no.5 Edgecumbe Avenue, Coogee, includes and surrounds the site.

Proposal

The application proposes alterations and additions to the dwelling including a two storey addition to the rear of the existing dwelling. At ground floor level, it is proposed to provide a family room, laundry, master suite and ensuite. External and internal changes are proposed to the original front section of the dwelling. At first floor level, it is proposed to provide an open planned kitchen, dining and living area, as well as a rear balcony. Changes are also proposed within the front garden.

Background

Heritage concerns were raised in relation to the heritage impact of changes within the front section of the dwelling and the rear addition. In relation to changes within the front section of the dwelling, concerns were raised in relation to the proposal to relocate the fretwork from its original location. In relation to the rear addition, concerns were raised that its scale, form and detailing would visually dominate, compete with and conceal the original form and massing of the existing building.

A meeting was organised to discuss these issues, and amended drawings have now been received. As compared to the original proposal, amended plans have reduce the extent of the upper level addition and increased its setback from the front of the dwelling.

Submission

The original application was accompanied by a Heritage Statement prepared by G3 Architecture, as well as an DCP LEP Compliance Summary in a separate appendix. Amended plans have been accompanied by a Statement of Heritage Impact prepared by Heritage 21. In relation to the heritage impacts of the proposal, the SHI notes that "The primary dwelling would continue to be clearly read as the main built form on the site, the new works would be perceived as subservient additions." The SHI notes that although the proposal would entail the removal of a section of the rear roof to construct the addition, "the amount of fabric to be removed is not unreasonable. The addition has been set as far to the rear of the dwelling as possible, in order to minimise the impact to the roof form and visibility to the streetscape."

The SHI has made suggestions in relation to proportions of new openings and materials for the rear addition and has recommend that removed heritage fabric should be salvaged and either reused on site or recycled into local heritage restoration facilities.

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.

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 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 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. Another Control requires 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. A further Control requires 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 Siting and Setbacks, clause 2.4 of the DCP includes a Control that development must respect side setbacks and rear alignments or setbacks of surrounding development.

Comments

The original form of the dwelling comprises a main hipped roof and an enclosed skillion in the north east corner. The hipped roof has gables to the front and side elevations, and there is a flat roofed front verandah. The rooms under the hipped roof comprise lounge room, sitting room, three bedrooms, kitchen, laundry and bathroom. Council has no application records relating to the existing garage adjacent to the front verandah, which Council's historic aerial photographs suggest dates from at least the mid twentieth century. Due to significant fall of the site towards the east, the floor, eaves and ridge heights of no.39 Dudley Street are about 2m higher than no.41.

Changes within the front section of the dwelling

Photographs provided in the SHI and on Council files indicate fine plaster ceilings in the front rooms, at least one intact fireplace and an ornate opening between the hallway and the sitting room with fretwork above and a decorative timberwork base.

Externally, it is proposed to relocate a window from the rear bedroom which is to be demolished to side wall of the front bedroom, and to reconfigure existing bathroom windows. Changes to existing brickwork should be carefully carried out to minimise impact on the quality of the existing brickwork. An appropriate consent condition should be included. It is also proposed to reinstate the shingles to the front bay window which were previously removed. Internally, it is proposed to replace the large opening from the hallway with door relocated from the rear bedroom, and to relocate the fretwork to a new location between the hallway and the family room. The fretwork screen comprises timber fretwork up to cornice level, with decorative corbels and valance, as well as low timber piers and timber panelling to either side of the opening. There are concerns that the proposal to relocate the fretwork from its original location will devalue this fine internal element and result in the loss of the decorative timberwork base.

It is acknowledged that the removal of the screen is required in order to use the former living area as a bedroom. The salvage and reuse of this decorative element on site is preferable to destruction or reuse in another building. An appropriate consent condition should be included.

Demolition

Photographs provided in the SHI and on Council files indicate that the ceiling in the kitchen is not original. It is unclear whether original ceilings remain in the rear bedroom. The application proposes to demolish the rear third of the dwelling containing kitchen, bedroom and sunroom/study. The rooms at rear of the dwelling generally comprise secondary building fabric, subject to some previous change. The proposal generally retains the integrity of the four main rooms at the front of the dwelling (with the exceptions discussed above). A consent condition should be included requiring archival recording of areas where changes are proposed.

Rear addition

The original rear addition was located behind the ridgeline of the side gable, but cut into the side gable, and removed over 30% of the primary roof form. Amended drawings have increased the setback of the front wall of upper level addition by around 2m, reducing its impact on the main roof and its streetscape visibility.

The original rear addition retained the original ceiling levels, with the family room having a ceiling height of around 4m. Upper level ceiling varied between 2.7m and around 3.7m. Reference to the survey and scaling of the drawings indicated that the front of roof was around 0.9m higher than the main ridgeline (which runs along the length of the roof) and the rear of the roof was around 1.7m higher than the main ridgeline.

Amended drawings have reduced ground floor and first floor ceiling heights, so that the front of the roof is around 0.4m higher than the main ridgeline, and the rear of the roof is around 0.8m higher than the main ridgeline. Amended drawings have considerably reduced the scale and bulk of the proposed upper level, reducing its impact on the main roof form, reducing its streetscape visibility and reducing its dominance in relation to the original form and massing of the dwelling. Amended drawings are generally consistent with DCP Controls in relation to Scale and Form, given the constraints of the site and the original form of the dwelling.

Materials and Finishes

The existing cottage comprises dark face brickwork to the front elevation and dark non-original concrete roof tiles. The finish to the side elevations is unclear, but appears to comprise common brickwork. The timber framed fc sheet sunroom enclosure and the rear elevation are painted white. The Materials and Finishes which has been submitted proposes whitewashed/white painted brickwork to the rear elevation. On the west side elevation it is proposed to retain the entirety of the existing face brickwork. On the east side elevation it is proposed that the new brickwork, which is set back from the face of the side gable, also be whitewashed/white painted. The upper level is to be clad in fc sheet with timber cover battens to joints, painted in white. There are concerns that the proposed white painted cladding will contrast too starkly with the existing dark brickwork and dark roof tiles, drawing attention to the upper level addition. The proposed finish to the roof is not indicated. A consent condition should be included requiring a more recessive finish to the upper level and the roof, and consideration could also be given to painting the new brickwork in a more recessive colour.

Changes within the front garden

Within the front garden area, it is proposed to widen the existing driveway by removing an existing retaining wall and constructing a new retaining wall. The area of soft landscaping within the front garden will be reduced, but it appears that no changes are proposed to the original front fence. The proposed changes will not significantly impact on the front garden setting of the heritage item.

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)

Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R3	
2	Site planning		
2.3	Site coverage		
	301 to 450 sqm = 55%	Site = 422sqm Proposed = 46%	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 = 422sqm Proposed = 25%	Yes
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	301 to 450 sqm = 6m x 6m	Site = 422sqm Proposed = 7.3m x 9.3m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.75:1	Site area = 422sqm Proposed FSR = 0.52:1	Yes
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Proposed = 7.4m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Proposed = 6.2m to western side and 7.4m to eastern side.	Yes, wall height is determined by the existing levels of the site and the floor level of the dwelling.
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: - 900mm for allotments with primary frontage width of less than 7m	Existing front setback of dwelling is maintained.	

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front 		
3.3.2	<p>Dwellings:</p> <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. <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	<p>Minimum = 1200mm</p> <p>Proposed = 1200mm to new portion of dwelling</p>	Yes
3.3.3	<p>Rear setbacks</p> <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 	<p>Minimum = 8m</p> <p>Proposed = 8.4m to 9.95m</p>	Yes
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 	<p>The proposed generally complies with the DCP building design controls having regard that the proposal is for alterations and additions to an existing dwelling.</p>	Yes
4.4	Roof Design and Features		
	<p><i>Rooftop terraces</i></p> <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) <p><i>Dormers</i></p> <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 <p><i>Clerestory windows and skylights</i></p> <ul style="list-style-type: none"> vii) Sympathetic to design of dwelling <p><i>Mechanical equipment</i></p> <ul style="list-style-type: none"> viii) Contained within roof form and not visible from street and surrounding properties. 	<p>Skillion roof form is proposed. No terrace or dormers are proposed.</p>	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) 	<p>Specific conditions of consent are included with respect to colours and materials.</p>	Subject to condition.

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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 required 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 maintain 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.	The adjoining properties will maintain solar access in accordance with the DCP controls.	Yes
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 	The alterations and additions to the dwelling will allow light and ventilation throughout both levels of the dwelling.	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>walls</p> <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	A BASIX Certificate has been provided with the application.	
5.3	Visual Privacy		
	Windows		
	<p>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:</p> <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). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>The upper level western side elevation of the dwelling does not contain windows that could impact the privacy of the adjoining property.</p> <p>Within the upper level eastern side elevation have a lower sill level above the ridge height of the adjoining dwelling at 41 Dudley Street and overlooking will be across the roof of that dwelling not into any private living areas.</p>	Yes
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>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)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.</p>	<p>The proposal includes a rear balcony which is located to the eastern side of the rear of the dwelling.</p> <p>A privacy screen is included to the western side of that screen to ensure privacy is maintained to the adjoining dwelling at 37 Dudley Street. A condition of consent is included to nominate the design and placement of the privacy screen to ensure it complies with the DCP privacy controls.</p>	Yes.

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DCP Clause	Controls	Proposal	Compliance
		Due to the lower level of the adjoining property at 41 Dudley Street overlooking from the balcony will be across the roof of that adjoining dwelling not directly into privacy living areas.	
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)	See detailed view loss assessment above.	Yes
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	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: - 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)	No change to the existing parking and vehicle access to the front of the site.	Yes

Responsible officer: Perry Head, Environmental Planning Officer

File Reference: DA/584/2021

Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/584/2021
Property:	39 Dudley Street, COOGEE
Proposal:	Alterations and additions to the existing dwelling house including new rear ground and first floor additions
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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

1. 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.100 Rev E	G3 Architecture	7 th June 2022
DA.101 Rev F	G3 Architecture	17 th August 2022
DA.102 Rev F	G3 Architecture	17 th August 2022
DA.201 Rev F	G3 Architecture	17 th August 2022
DA.202 Rev F	G3 Architecture	17 th August 2022
DA.203 Rev F	G3 Architecture	17 th August 2022
DA.204 Rev F	G3 Architecture	17 th August 2022
DA.301 Rev F	G3 Architecture	17 th August 2022

BASIX Certificate No.	Dated
A427242_03	17/6/2022

2. Changes to existing brickwork to relocate the window from the rear bedroom to the side wall of the front bedroom should be carefully carried out to avoid impact on the quality of the existing brickwork, as rendering/painting of the side wall will not be approved.
3. The existing fretwork screen including timber fretwork, decorative corbels and valance, as well as low timber piers and timber panelling to either side of the opening, are to be carefully salvaged from the front room for reinstallation at the rear of the dwelling.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a relevant 'Construction Certificate' is issued for the development by a Registered (Building) Certifier. All

necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the relevant construction certificate.

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

Consent Requirements

4. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.
5. A salvage plan shall be prepared and 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 salvage plan is required to ensure that materials including architraves, skirtings, windows, doors and remnant components of significant heritage fabric are carefully removed and stored, sold or donated to a heritage salvaging yard to facilitate the conservation of other buildings of a similar period.
6. 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. A digital copy 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:
 - o 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;
 - o Digital copies of the archival photographs in JPEG (or TIFF) formats.
7. A more recessive finish to the upper level and the new roof is to be provided, as the proposed white painted cladding will contrast too starkly with the existing dark brickwork and dark roof tiles, drawing attention to the upper level addition. Consideration could also be given to painting the new brickwork in a more recessive colour. Amended 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 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.
8. 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.

Section 7.12 Development Contributions

9. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$484,379 the following applicable monetary levy must be paid to Council: \$4,843.80.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

Council's Development 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

10. 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 and 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

11. 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/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 relevant construction certificate for the development.

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

Building Code of Australia

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

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

BASIX Requirements

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

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

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

Excavations & Support of Adjoining Land

14. Details of proposed excavations and support of the adjoining land and buildings are to be prepared by a professional engineer and be included in the construction certificate, to the satisfaction of the appointed Certifier.

Stormwater Drainage

15. 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;
- 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 or statement 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 WORKS

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

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

Building Certification & Associated Requirements

16. The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):
- a) a *Construction Certificate* must be obtained from a *Registered (Building) Certifier*, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) a *Registered (Building) Certifier* must be appointed as the *Principal Certifier* for the development to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the *Principal Certifier* and Council must be notified accordingly (in writing); and
 - d) the *principal contractor* must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the *Principal Certifier*; and

- e) at least two days' notice must be given to the *Principal Certifier* and Council, in writing, prior to commencing any works.

Home Building Act 1989

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

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

Construction Site Management Plan

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

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

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

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

Demolition Work

19. A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:
- a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.
 - b) The Demolition Work Plan must include the following details (as applicable):
 - The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
 - Details of hazardous materials in the building (including materials containing asbestos)
 - Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)
 - Measures and processes to be implemented to ensure the health & safety of workers and community

- Measures to be implemented to minimise any airborne dust and asbestos
- Methods and location of disposal of any hazardous materials (including asbestos)
- Other measures to be implemented to ensure public health and safety
- Date the demolition works will commence/finish.

The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

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

Notes: *it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.*

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

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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity during construction.

Site Signage

20. A sign must be installed in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:

- name, address, contractor licence number and telephone number of the principal building 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

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none">• Monday to Friday - 7.00am to 5.00pm• Saturday - 8.00am to 5.00pm• Sunday & public holidays - No work permitted
Excavations in rock, sawing of rock,	<ul style="list-style-type: none">• Monday to Friday - 8.00am to 3.00pm

use of jack-hammers, driven-type piling/shoring or the like	(maximum) <ul style="list-style-type: none"> • As may be further limited in Noise & Vibration Management Plan • Saturday - No work permitted • Sunday & public holidays - No work permitted
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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.

Construction Site Management

22. Temporary site safety fencing must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works.

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

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

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

Notes:

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

23. Public safety and amenity must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:
- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
 - b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
 - c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
 - d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.

- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines.
- g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

Demolition Work & Removal of Asbestos Materials

24. Demolition work must be carried out in accordance with relevant SafeWork NSW Requirements and Codes of Practice; Australian Standard – AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.

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

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro),
- Asbestos waste must be disposed of in accordance with the *Protection of the Environment Operations Act 1997* and relevant Regulations
- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",
- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works,

Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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 and Support of Adjoining Land**
25. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details.

Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.

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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

- Occupation Certificate Requirements**
26. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

- BASIX Requirements & Certification**
27. In accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that 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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

- External Lighting**
28. 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.

Development Application Report No. D73/22

Subject: 3 Monmouth Street, Randwick (DA/534/2022)


Executive Summary

Proposal:	Demolition, alterations and additions, including construction of a first-floor addition, minor ground floor extension to the rear, internal refurbishment to the existing dwelling, excavation for an in-ground rear pool, landscaping and ancillary works (Heritage Conservation Area).
Ward:	North Ward
Applicant:	Mrs S G Horsfield
Owner:	Mrs S G Horsfield & Mr C W Horsfield
Cost of works:	\$440,000
Reason for referral:	10 or more unique objections received

Recommendation

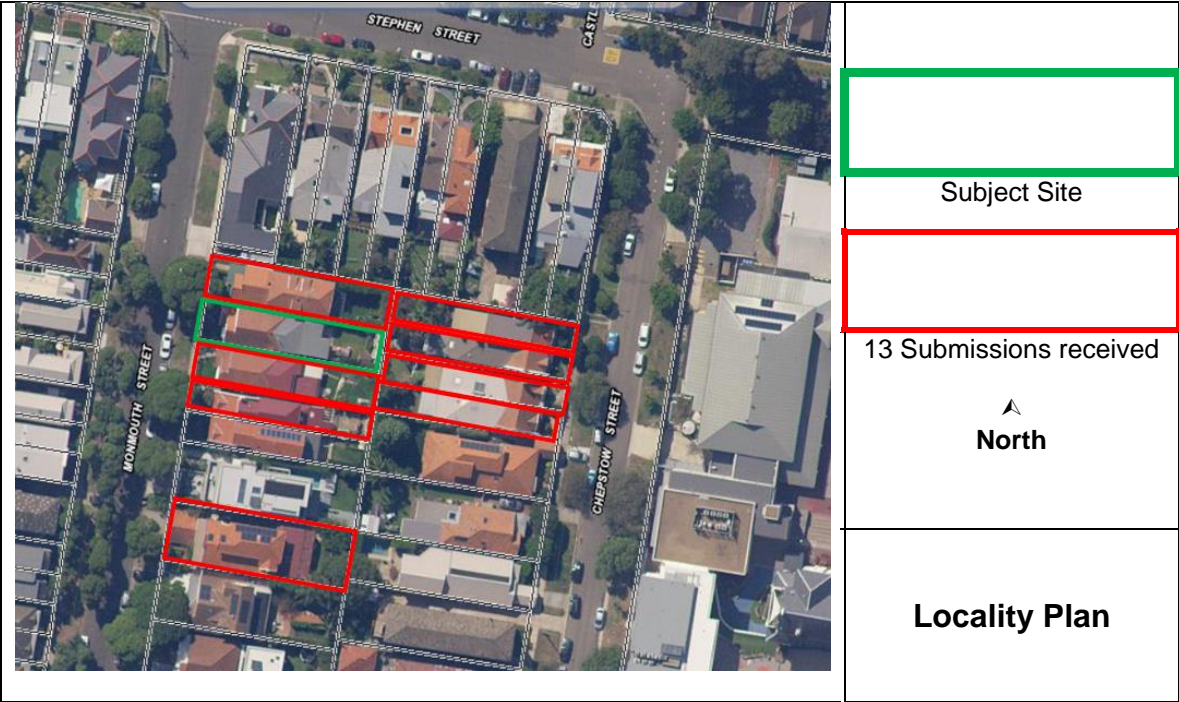
That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/534/2022 for Demolition, alterations and additions, including construction of a first-floor addition, minor ground floor extension to the rear, internal refurbishment to the existing dwelling, excavation for an in-ground rear pool, landscaping and ancillary works, at No. 3 Monmouth Street Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/534/2022 - 3 Monmouth Street, RANDWICK

D73/22

D73/22



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as 10 or more unique submissions by way of objection were received

The proposal seeks development consent for demolition, alterations and additions, including construction of a first-floor addition, minor ground floor extension to the rear, internal refurbishment to the existing dwelling, excavation for an in-ground rear pool, landscaping and ancillary works.

The key issues associated with the proposal relate to privacy (including the balcony), overshadowing, accuracy of the documentation, management of surface water, rear setback of the proposed first floor, accuracy boundaries, level of excavation.

The proposal is recommended for approval subject to non-standard conditions that require privacy screens to the balcony to be 1.8m, privacy protections to three windows, establishment of boundaries prior to construction certificate, boundary fencing not to exceed 1800mm, stormwater drainage to the kerb and gutter, and permission to remove screen planting around the perimeter of the rear setback.

2. Site Description and Locality

The site is known as 3 Monmouth Street Randwick and is legally described as Lot 2 in DP 168089. The site is 314m², is regular in shape and has a 8.456m frontage to Monmouth Street to the west. The site contains a single storey brick and tile cottage. Metal roofing is to the extension at the rear and a metal shed is in the rear north east corner.

The site slopes approximately 1.53m from the elevated rear eastern side at RL65.13 to the north western corner at RL63.6. This provides for a 4% slope over the length of the site. The very rear eastern side of the property includes an elevated section which is up to 1.23m above the lawn area in the back yard. This elevated area is the location of the proposed pool.

The house is relatively dark inside due to its southern windows being largely below the top of the fence of 5 Monmouth Street to the south and the northern side being below the two storey roofline of 1 Monmouth Street.

The site is within the North Randwick Heritage Conservation Area.

To the north is 1 Monmouth Street which is a two storey rendered dwelling. The rear includes a BBQ area and patio close to the boundary of 3 Monmouth Street which is under a pergola with widely spaced beams. The site is lower than 3 Monmouth Street. The pergola area and the rear and side window changes to the first floor were constructed under DA/90/2018. The first floor includes horizontally slatted privacy screening on all the windows facing east to the rear yard and north. The three screens closest to 3 Monmouth Street are fixed (as set out in the approved plans). The northern windows were required to include privacy screening to 1.6m as a condition of consent. The privacy screens facing east to the rear yard are full height. The timber pergola is very open to the sky with beams offering little restriction to sun/rain or potential overlooking. A timber batten privacy screen is on the southern side of the ground floor BBQ area close to the fence with 3 Monmouth Street and formed part of the approved plans. It is the height of the pergola at about RL66.3 – just above the boundary fence height (about 3m). The rear yard is flat with a rear retaining wall near the eastern and southern fenceline. The only first floor window facing the site on the southern side is a dormer bathroom window.

To the south is 5 Monmouth Street which is a single storey rendered cottage. A rear extension was approved and constructed under DA/235/2018. This has extensive full length windows to the north and east to the main kitchen/living area. On the northern side of these living windows near 3 Monmouth Street's boundary is a pool above which is an operable vergola louvred awning. A outdoor living area is to the east of the living area under the vergola, overlooking the rear yard which has a tiered area on the rear east boundary which reflects the underlying sandstone ridge. A clerestory window above the kitchen provides western light to the living area. The site is elevated above 3 Monmouth Street, following the topography of the street. The existing roofline of 3 Monmouth Street's rear ground floor is approximately at the same level as the 1.9m high fence when viewed from 5 Monmouth Street.

Further to the south is 7 Monmouth Street, a two storey dwelling. From its upstairs bedrooms it has extensive views to the north which includes a view to the skyline of Bondi Junction. The top of this skyline is visible from the kitchen living area towards the rear of the dwelling on the ground floor. The view is obtained over the side boundary. There are windows facing to the rear on the first floor from a bedroom. There is balustrading for safety reasons in front of one window. No privacy screening is on the side or rear windows.

Continuing to the south is 9 Monmouth Street which is a semi-detached dwelling to 7 Monmouth Street. Its first floor rear setback is slightly further to the rear than 7 Monmouth Street by about 2m. It contains no privacy screening on the rear window. Number 11 Monmouth Street presents as a modern two storey dwelling which is inconsistent with its neighbours in both form and rear setback. It includes unscreened rear windows and screened side windows and a northern side balcony which is setback from the rear façade and is fully screened. 13 Monmouth Street also has a first floor with a setback roughly similar to 7 Monmouth Street. It has a rear balcony on the northern half of its rear façade.

North of 1 Monmouth Street are dwellings facing Stephen Street. 22 and 24 Stephen Street's rear yards are adjacent to the side boundary of 1 Monmouth Street. 26 and 28 Stephen Street have their rear boundaries abutting the rear yard of 2 Chepstow Street.

To the rear of the site are dwellings in Chepstow Street. 2 and 4 Chepstow Street, and 6 and 8 Chepstow Street are two sets of semi-detached dwellings. 4 and 6 Chepstow Street share a common rear boundary with the site. A large gum tree is located close to the rear and side boundaries of 2 and 4 Chepstow Street (opposite 1 Monmouth Street), but in the rear yard of 2 Chepstow Street.

D73/22



Figure 1: Site from Monmouth Street. Number 1 is on the left and number 5 on the right



Figure 2: Rear yard of 3 Monmouth Street looking east. Overhanging gum tree above the shed which is the location for the pool. Note the rear stone wall is constructed with an apparent natural sandstone rock shelf behind the low hedge and in front of the shed.



Figure 3: Rear yard of 3 Monmouth Street looking north west to the rear of 1 Monmouth Street. The ground floor addition is proposed where the chairs are located.

3. Relevant history

On 20 December 2021, Council approved DA/190/2021 for alterations and additions to the existing building and a pool under delegated authority. Conditions of consent included various amendments to the proposal. There have been some contentions as to whether the appropriate process was followed for the delegated determination. During the course of assessment of that proposal the first floor addition was relocated further to the rear and the roofline changed from a gable roof to a hipped roof, for the purposes of maintaining a more appropriate streetscape presentation within the heritage conservation area.

This DA generally includes the amendments required prior to construction certificate under the conditions in DA/190/2021, but is otherwise generally the same as that which was approved. One condition which is not fully included in the proposal is that the springing height of the first floor was conditioned to be at 2.1m however is now proposed at 2.3m. In order to achieve this the first floor level has been reduced 200mm, with the ceiling height of the ground floor to be lowered to 2.8m. The ceiling in the first floor is to be raked. The application also seeks to not follow condition 2(d) which required W14 (the first floor south facing study window) to have a minimum sill height of 1.6m or fixed translucent, obscured, frosted or sandblasted glazing below that level. The proposal instead seeks to maintain the larger window size but to include privacy fencing below 1.6m.

The proposal includes a height to RL71.09. The consent for DA/190/2021 required a reduction in the springing height by 600mm. The height in the plans was RL71.69. The proposal has a springing height of 2.3m (not the 2.1m set out in the consent), however a 600mm reduction in height has been achieved, including by the reduction in the height of the ground floor (existing) ceilings. The roof over the balcony has been reduced in size and height.

4. Proposal

The proposal seeks development consent for demolition, alterations and additions, including construction of a first-floor addition, minor ground floor extension to the rear, internal refurbishment to the existing dwelling, excavation for an in-ground rear pool, landscaping and ancillary works.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Comprehensive DCP 2013. The following submissions were received as a result of the notification process (13 unique submissions):

- 1 Monmouth Street

Issue	Comment
Hand-drawn plans and shadow diagrams are not fit for purpose	The applicant is not required to provide computer drafted plans by the legislation.
An accurate boundary survey is not provided	Noted
No details of the pool build or geotechnical information	Noted. These would be provided in the construction certificate documentation. Geotechnical reports for a pool are not normally require by Council.
No stormwater plans and no change to the existing stormwater drainage system. Paths should be drained away from the building and adjoining premises. The site is on a sandstone ridge and proper engineering is required. There are significant existing issues with water drainage at No. 3. The laundry stair acts as a dam.	Council usually conditions stormwater plans as part of a DA consent. A condition can be imposed to discharge to the street. It is understood that the applicant is prepared to accept a condition requiring the laundry concrete stair to instead have open tread.
Side Pebbles The pebbles add to bulk and creates a problem with noise and drainage. Should be deleted with the cement path retained	The pebble is likely to reduce runoff to the neighbours from the existing paved pathway.
Multiple false statements in the SEE:	See below:
<i>Excavation conducted in rear of 1 Monmouth Street.</i> Incorrect – no excavation has occurred and there is no change of level, although some soil and sandstone in the rear garden of Number 3 has been removed this year	No 1 has replaced the wooden retaining wall with a sandstone wall but the ground level of the yard has remained the same. There is insufficient evidence to make any comment on the removal of soil and stone from Number 3.
<i>The build is modest.</i> Not true as it is large. Pebbled surfaces are so it achieves permeable land percentage. It extends 5 metres from the existing NE corner of the building and into the rear of the property and well beyond the first floor rear façade of neighbouring homes.	The proposal generally complies with the numerical controls of the DCP. It is 7.45m high (2.05m below the maximum height). It complies with the wall height control. The FSR of 0.6:1 is well below the maximum of 0.75:1. Agreed that the likely reason for including pebbles is to comply with the DCP, however that is acceptable. The hard surfaces covered by the proposal will be similar to existing
Bulk, loss of privacy, view loss, sunlight loss, loss of amenity and overshadowing	See discussion below

Issue	Comment
The floodlight will sit anterolaterally in the new build flooding light into 1 Monmouth St, including the bedroom window and living space	A condition of consent can include a restriction concerning obtrusive lighting
If the first floor rear setback was reduced to sit the same as 1 Monmouth Street most of the DA problems would resolve.	See discussion in section 8
Claims of poisoning of trees by neighbours is questionable and irrelevant to the DA.	This is not the forum to consider such claims. Note that the landscape officer indicates that perimeter landscaping near the pool cannot be retained due to legislative requirements
Balcony Balcony is not a Juliet balcony and it will cause significant privacy loss to homes to the north, south and east. The slatted 1.6m screens are inadequate. There will be direct views into every surrounding yard and light spill into the upstairs bedroom downstairs outdoor deck and living room and rear yard of 1 Monmouth Street. The balcony should be removed	See discussion in section 8
Privacy and W3 The claim that W3 will have no privacy impact on No 1 is incorrect as it is approximately 1m from the boundary fence and BBQ of 1 Monmouth Street and elevated 1.5-2m above the deck seating and BBQ, back door and well anterior of the fixed screens on 1 Monmouth. It provides a direct view from the bedroom of No. 3 into outdoor living spaces and indoor areas of No1. Auditory spill from the balcony and W3 into No 1's bedroom. Direct gaze into the bedroom as it is anterior to No 1.'s façade. Disregard of Council regulations allowing W3 as proposed and the balcony which are starkly contrasting to the strict controls applied to the windows on No 1. Those windows are 15m from neighbours' homes. W3 should be removed	See discussion in section 8
W7 Living window ground floor Auditory ingress from W7 1.4m away (this is the ground floor new living room window on the north)	The window is partly below the fence line. There are already windows on the ground floor northern elevation. It provides the opportunity for some northern sunlight into the living area, and is considered reasonable.
Rear windows - Privacy The same privacy screening applied to the rear of No 1 should apply to the W10 windows (presumably W10 and W12 first floor rear facing east)	Other properties with east/rear facing windows do not have such a high level of screening (e.g. No. 7).

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Issue	Comment
Fencing The DA says there will be no change to fencing although they are proposing a pool. The side fence is not on the boundary line and no accurate boundary survey is provided. Concern the pool will not be constructed accurately with the required setbacks and the acceptability of the fence for swimming pool requirements. Retaining of No 1's garden from subsidence and destruction of existing garden and retaining wall on No 1.	A dilapidation report could be conditioned. Conditions of consent can require support of adjoining land and retaining walls with details from an engineer prior to work commencing. Conditions can require a boundary survey.
Loss of view corridor for properties to the south	See discussion under view loss
Overshadowing of homes to the south and accuracy of shadow diagrams	See discussion under shadowing
Solar and natural light access to homes to the south	See discussion under No 5

- 1 Monmouth Street

Issue	Comment
Privacy impacts from the balcony with views into the rear yard. The 1.6m slatted screens will not adequately protect our privacy	See discussion in section 8
W3's proximity provides a direct view to our back yard and deck and the downstairs living area.	Noted. See discussion in section 8
Auditory impacts from the window due to its proximity. Possibility of being overheard when working from the living room	The houses are close together. If the occupants of No 3 were outside any such conversations could also be heard. It is unreasonable to prevent the window based on auditory potential impacts

- 5 Monmouth Street

Issue	Comment
Misleading and inaccurate statements	
South facing windows – privacy Request upper level south facing windows (study and bathroom) have improved privacy screening (full length west facing or opaque glass) as they overlook directly the main living, kitchen and outdoor areas of their home. 1.6m screening is insufficient and will impact on sense of privacy due to topography – being at eye level to our only living area	<p>The sill height of W14 (study) and W15 (bathroom) are not stated in the plans but expected to be about 900mm and 1.5m respectively above FFL of RL67.39. W14's sill will be at about RL68.3, with the 1.6m top of screen at RL68.9. W15 sill will be at about RL65.9. The survey from this application states the sill for No 5's living room is at RL65.52 to a height of RL68.52.</p> <p>The condition set out in the original consent is preferred for W14 – either a 1.6m high sill or fixed obscure etc glazing beneath. It is considered that fixed louvres facing south west could also achieve the same level of privacy. This could be conditioned as an additional alternative.</p> <p>Council generally requires highlight windows such as for bathrooms to be at 1.6m above FFL and this should be conditioned.</p>
Rear balcony – privacy The SEE misrepresents the topography. The balcony will have unlimited full viewing into the key living areas at eye level through the full length windows, breaching privacy. Its removal would not impact on amenity of the applicant's light or ventilation but would have a significant improvement for our privacy. No neighbouring homes have a rear balcony. The applicants objected to a balcony on the recent development for 6 Chepstow St to their direct rear. Balcony should be removed and all rear windows have full length privacy screening as per 1 Monmouth Street or frosted glass	<p>The balcony level is at RL67.39. The FFL of No 5 is at RL65.49 – 1.9m lower. It has privacy screening to 1.6m high on both sides. It is recommended that the privacy screening be raised to 1.8m.</p> <p>The screened balcony will have the effect of reducing the amount of overlooking able to be achieved from the rear first floor windows into neighbouring rear yards because some side angled views will be blocked by the balcony screening.</p> <p>Other than at 1 Monmouth Street, full length privacy screening is not generally applied in the area.</p>
Vegetation has been removed by the applicants on the north and south boundaries over the past 12 months. Vegetation cannot be used to negate privacy impacts	Agreed that vegetation is a poor manner by which to ensure privacy
It is incorrect to say that the viewing line will be over the roofline of No 5's vergola	The FFL of the first floor will be at RL67.39. The vergola of No. 5 is at RL68.77 – 1.38m above the FFL of the first floor. The eye level will be just above the vergola height
There have been ongoing breaches of privacy by the occupants of No. 3 leading to distress, particularly if privacy is further impacted by this proposal.	Noted

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Issue	Comment
<p>Inaccurate Shadow diagrams – overshadowing</p> <p>Shadow diagrams are incorrect. They indicate substantial overshadowing of their northern window by the existing structure which is not higher than the fenceline in places due to topography and causes no overshadowing. They show full overshadowing at 8am despite the rear facing north east which is contradicted by the 12pm diagram. A more skilful design should be provided rather than using inaccurate shadow diagrams to justify the proposal.</p> <p>The pool is not included in the shadow diagrams. The vergola is not fixed shut or usually shut – it is open, and operable.</p> <p>Photos taken on 17 June 2022 at 2.27pm show sunlight on the plant close to the fence and full sunshine on the northern windows which is in contrast to the shadow diagrams. They have full and total solar access to the main living areas on 21 June for the majority of the day and the house is designed to make use of this.</p> <p>3 hours sunlight to living room windows midwinter is not achieved.</p>	<p>The applicants were asked to recheck the shadow diagrams and the response was that they were considered correct. Having reviewed the shadow diagrams it appears that whilst the assessor is unable to clarify definitively their correctness, they are providing a reasonable representation of the existing and proposed shadows. It is clear that there is some existing overshadowing of the living room windows, particularly at 8am and 4pm. At 8am, the proposal shows that there will be almost full sunlight to the rear most living window. By noon the sunlight will still be on the upper portions of each of the three living room windows. Therefore there will be at least 4 hours of solar access to a portion of the living room windows, in compliance with the DCP control.</p> <p>It is clear that the pool is between the rear living area and the northern boundary, whether or not it is shown in the shadow diagrams.</p> <p>5 Monmouth Street is almost due south of 3 Monmouth Street. A first floor extension will inevitably create an increase in overshadowing simply because of the block orientation.</p> <p>The existing top of gutter for 3 Monmouth Street is at RL67.02 sloping to RL67.48 before the rear ridge at RL68.71. The proposed ridge is at RL71.09. It is hipped at the front and rear reducing the anticipated overshadowing from that which would occur if a parapet or gable roof form was used. The hip roof has advantages for reduction in overshadowing for No. 5. The first floor height has been reduced as a result of the conditions in the previous consent. The height of the proposal is relatively low for a two storey dwelling at 7.45m.</p>
<p>Rear setback (Bulk and Scale)</p> <p>Overshadowing is caused by the rear bulk. The rear setback does not comply with the objectives of the DCP and the upper level setback is significantly less than neighbours</p>	<p>As accepted by the submitter, the rear setback complies with the numerical control. Council's rear setback controls do not differentiate between ground and first floor setbacks. The requirement to have regard to view sharing and privacy and solar access is considered elsewhere,</p>

Issue	Comment
<p>Rear awning (view sharing and rear setback) The height of the awning is at 3.4m. It is not clear how that relates to the fences.</p> <p>Loss of views to Bondi Junction skyline</p>	<p>On the southern side the awning is at 2.8m – commensurate with the lowered ceiling of the existing dwelling. On the southern side it is at 3.48m, reflecting the topography of the slope of the site.</p> <p>The awning will be at RL67.39. It is estimated that the height of the fence is approximately 1.8-1.9m above the ground level of No. 5 on its northern side which is estimated to be a little below the FFL of RL65.49. Assuming the FFL is 0.2m below the FFL, the top of the boundary fence is probably about RL67-RL67.1. The awning will be a little above the existing roofline at the rear which is at RL 67.02, so will be visible for about 0.4m or so. It is not unusual for neighbouring ground level awnings to be visible above fencing to a much greater extent than this, where the impact is reduced because No. 3 is lower in topography than No. 5.</p> <p>View loss – see discussion below</p>
<p>Rear excavation and drainage SEE is misleading in the extent of excavation. Our site has not been levelled – it has maintained the natural flow of the site and is stepped up at the rear. No. 1 has not been excavated.</p> <p>Pool engineering is required.</p> <p>Pebbles are included just to meet deep soil requirements.</p> <p>Significant water issues are not addressed</p>	<p>Noted. The survey accompanying the 5 Monmouth Street renovations does indicate a more sloping rear yard than currently however this is irrelevant to the assessment of this proposal.</p> <p>A condition of consent can be included about engineering for excavations and support of adjoining land and drainage.</p> <p>Removing some paved area to comply with DCP deep soil requirements is not an unusual methodology used by applicants. The pavers to be removed in the rear yard are roughly commensurate with the area to comprise the patio at the rear</p>
<p>Boundaries – survey. A boundary survey should be undertaken and provided to neighbours prior to demolition</p>	<p>This can be conditioned, although surveys are not normally provided to neighbours.</p>
<p>Gas fireplace Where is the flue? Further clarity required</p>	<p>Apparently no flue is required for the gas fire.</p>

- Relative of occupants of 5 Monmouth Street

Issue	Comment
<p>The balcony means that anyone sitting or standing on the balcony can see directly into the living area of 5 Monmouth St impacting privacy</p>	<p>See comments above</p>

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- 5 Monmouth Street

Issue	Comment
Privacy impacts particularly from the balcony	See comments above
Privacy screening required for south facing windows to avoid direct looking into key living areas. 1.6m screens are inadequate as 5 Monmouth St is uphill	See comments above
Overshadowing. Currently there is no overshadowing in midwinter. An alternative design should be used	See above comments re overshadowing
Overshadowing impacts should include the 5m + dense Murraya hedging on the southern side	Landscaping is not usually included in shadow diagrams given it can die or be removed.
Level of excavation for the pool is misrepresented. Landscaping should remain intact and neighbouring houses protected.	Landscaping is unlikely to be retained due to Swimming Pool Act safety requirements. Conditions of consent can apply to protect neighbours from excavation

- 7 Monmouth Street (submission 1)

Issue	Comment
An equitable approach should be taken. In essence, the first floor should be moved forward to be in line with 1 Monmouth Street's front first floor setback and in line with 1 Monmouth Street's rear first floor setback. The balcony should be removed. This would reduce the impact of overshadowing, bulk, loss of energy conservation, view loss and privacy impacts. 1.6m privacy screens are too low	<p>The balcony includes screens. These are recommended to be increased to 1.8m. With the screening, no greater views into rear yards can be achieved, other than that it is about 800mm closer to the rear fence.</p> <p>The front setback was set back for heritage reasons.</p> <p>The addition is relatively modest in that the proposal is well below both the height and FSR controls and well within the rear setback control</p>
The shadow diagrams are not fit for purpose and are inaccurate. They do not show No. 5's pool. Shadowing from poor design is not acceptable even if it satisfies numerical guidelines (<i>The Benevolent Society of NSW v Waverley Council</i>)	See discussion on shadow diagrams below
Was the survey prepared on site?	The surveyor has confirmed that the survey was conducted on site
The proposal relies on numerical compliance and not compliance with the DCP controls and precedent and LEC caselaw	The proposal does generally easily meet the numerical controls. Section 4.15(3A)(a) of the EP & A Act prevents a consent authority from requiring more onerous standards to those in the DCP. The importance of objectives are of most relevance in considering when an application does not comply with the standards (section 4.15(3A)(b) of the EP & A Act)
Landscaping cannot be used as a main safeguard to protect against overlooking	Agreed

Issue	Comment
11 Monmouth Street's balconies were approved with fixed metal louvres on all sides to a height of 1.8m	Noted
7 Monmouth Street does not have east facing doors and a fake Juliet balcony. They are windows at 670mm above the floor level with an external safety rail. You cannot step out into this space as there is a skylight below	Noted and agreed from the inspection
View from the kitchen/family room of 7 Monmouth Street to the Bondi Junction skyline will be completely lost. The skyline is specifically mentioned in the DCP. A <i>Tenacity</i> analysis is provided.	See view analysis
DA for 6 Chepstow required alterations to reduce excess bulk. The applicants for 3 Monmouth Street strongly objected to the proposed balcony at 6 Chepstow St citing privacy	Noted, this report considers the application at 3 Monmouth Street.
No 5 Monmouth Street's vergola is not solid and is not permanently closed as stated in the application. It allows 5 Monmouth Street to regulate its sunlight throughout the day.	Noted and observed on site
Earthworks – excavation to 1.2m is required prior to excavation of 1.8m for the pool, creating a substantial change to the natural ground level, removing a large amount of mainly sandstone bedrock. It is incorrect to allege that 1 and 5 Monmouth Street have excavated	Council's engineers are satisfied with the level of excavation. Conditions of consent can be applied regarding excavation.

- 7 Monmouth Street (second submission)

Issue	Comment
The amount of excavation is in excess of 1.2m. Existing vegetation will not be able to be retained which will create further privacy issues	Loss of existing vegetation is a new issue from the previous submission. The Landscape officer has advised that the landscaping near the pool will need to be removed to comply with swimming pool legislation.

- 13 Monmouth Street

Issue	Comment
Rear balcony should be removed due to invasion of privacy to many homes. No upstairs rear balconies in Monmouth Street. Leads to additional overshadowing and are rarely used and best not allowed	See discussion of rear balcony below
Landscaping should not be used to cover (for privacy) because it leads to overshadowing and view limitation	Noted. No landscaping plan has been provided
Loss of views	See view loss assessment below

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Issue	Comment
Excessive bulk is non-compliant in many respects	The proposal complies with most controls
The bulk of 11 Monmouth Street led to complete loss of their views and sunlight leading to increased need for heating	Noted
Shadow diagrams are incorrect which is what happened to them when 11 Monmouth Street was built	See discussion on shadow diagrams below

- 2 Chepstow Street

Issue	Comment
There is an existing <i>Eucalyptus haemostoma</i> Scribbly gum in their back yard and the branches extend over the proposed pool. The tree is not shown on the diagrams. Concerned excavation may affect the stability of the tree and a qualified arborist must be consulted during excavation. The likely requirement to prune roots and tree branches should be advised and performed by a suitably qualified arborist.	The landscape officer has indicated that the distance from the trunk is such that major root damage can be avoided and that no pruning will be required.

- 4 Chepstow Street

Issue	Comment
House is directly behind 3 Monmouth Street. Object to the balcony which will have a direct view into the lounge/living room and rear yard. No other house in Monmouth Street has such a structure. 2 Chepstow 3 years ago was not permitted a balcony for their upstairs addition	See below re the rear balcony
Would like to retain the present tree cover on the boundary fence for privacy	The landscape officer has indicated that this is likely to be required for removal to comply with the swimming pool legislation

- 6 Chepstow Street

Issue	Comment
Privacy. The balcony will look directly into the kitchen of 6 Chepstow Street and impact on how the family conducts their life. Existing hedging is not an acceptable form of privacy.	See discussion on balcony in section 8
Size of the first floor rear windows which allow vision into the homes opposite	The size is not unusually large
Noise from the open space balcony	The balcony is 800mm deep (probably 700mm once the balustrading is included), and only 2 metres across (1.6m ²). This is a very small space and not somewhere where people will gather, particularly being off the main bedroom

Issue	Comment
The above reasons were the reasons Council gave for declining the request for a balcony on 6 Chepstow Street	Noted, however this assessment is considering this application
Shadow diagrams are incomplete and do not show impacts on residents in Chepstow Street.	The 4pm shadows show that there will be additional impacts on 4 and 6 Chepstow Street.
Precedent – Council has previously rejected all rear balconies for Chepstow and Monmouth Street and a precedent has been set	All applications are assessed on their own merit. Noted that no such balconies are currently in the immediate area.

- 8 Chepstow Street

Issue	Comment
Amenity – Solar access and overshadowing of 8 Chepstow with near 100% overshadowing of all living areas and the backyard	There will be additional overshadowing of the rear yard in the late afternoon. It is noted that there is a large pine in the rear of 5 Monmouth Street which already shades the rear yard and roof of 8 Chepstow at this time of the day
Shadow diagrams omits assessment of natural level changes between all buildings	See comments on shadow diagrams below
8 Chepstow St faces WNE (stet) and receives light from the rear patio and a roof panel which will be 100% overshadowed removing the main light source. Does not get 3 hours sunlight between 8am and 4pm or meet BASIX	<p>The rear of 8 Chepstow St faces nearly west – not at the angle which could be described as WNW. No. 3's proposal is North-west of 8 Chepstow. Overshadowing is likely to affect 8 Chepstow likely after 3pm. The tree in the rear of 5 Monmouth currently shades the rear yard.</p> <p>The removal of vegetation of the pool may improve solar access to 8 Chepstow in the late afternoon.</p>
Amenity – Visual privacy and overlooking Balcony and two rear windows will look directly into the backyard and living areas. DA says hedging will provide sufficient privacy but the pool may make this not feasible	<p>From the survey for 6 Chepstow (DA/662/2017) the rear yard of 8 Chepstow is at approximately RL66.5, with the rear awning at RL69. The top of the rear fence of 8 Chepstow from that survey is at RL68.44-RL68.69.</p> <p>The first floor living area proposed at 3 Monmouth Street is at RL67.39 – approximately 0.9m above the rear yard and FFL of 8 Chepstow, and 1.1-1.3m below the fence of 8 Chepstow. The height fence of 3 Monmouth Street is not set out in any plans or surveys, however at the moment any fence is overwhelmed by a tall hedge. A fence of 1.8m above the existing height of the rock shelf at 3 Monmouth Street will be at $RL65.13 + 1.8 = RL66.93$. It is considered that the first floor will not cause unreasonable privacy impacts to 8 Chepstow Street.</p> <p>Council's landscape officer has agreed that the hedging will be required for removal to comply with swimming pool requirements</p>

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Issue	Comment
View sharing 8 Chepstow has city views which should be preserved. Any removal of these would have a significant impact on amenity. View corridors should be protected	See discussion on views in section 8
Building design – bulk and scale Long blank side elevations which replace current views, pushes every aspect of Council guidelines, is significantly larger in scale than the comparable 1 Monmouth Street. Appears to breach the deep soil permeable area control which would be closer to 20% not 44%	Side elevations have windows and do not exceed 12m as set out in the DCP. Proposal generally complies and is well below the LEP height and FSR controls. Estimate of deep soil is 26-28% which complies.
Acoustic privacy No sound proofing of pool equipment	This can be conditioned
Heritage No Heritage Impact Statement. Does not address DCP Part B2 and has a negative impact on the Randwick North Conservation Area. The gable end is more impactful than 1 Monmouth Street and diminishes the value of the original dwellings Works at 1 Monmouth Street were approved prior to the adoption of the current DCP in 2013	A heritage impact statement was provided. The HIS addresses Part B2. Council's heritage officer has indicated that the proposal complies with Council's heritage controls and has been amended with advice from Council. The heritage officer recommends a clear separate schedule of materials, finishes and colours and an unexpected finds condition.
Tree preservation No provision given to the preservation of roots for the 4m established Moreton Bay Hoop Pine in the backyard of 5 Monmouth Street	The landscape officer has indicated the tree is sited at a sufficient distance and at a higher ground level, and combined with the impervious nature of the bedrock which physically prevents root growth entering the site, means that no impact is expected for this tree.

- Address not provided

Issue	Comment
Does not meet several DCP objectives including overshadowing, excessive bulk, failure to align the rear setbacks with neighbours, loss of privacy and loss of view sharing	See comments made elsewhere
This could be addressed by increasing the first floor rear setback to meet that of 1 Monmouth Street and removal of the balcony which would result in minimal if any loss of amenity for the applicants.	See comments made in relation to 7 Monmouth Street's submission
This is an unwelcome and negative precedent	Noted

The applicant provided a response to the submissions with details summarised below.

Issue	Comment
Number of submissions	13 unique submissions have been received as detailed above. Section 4.15(1)(d) of the EP & A Act requires all submissions to be taken into consideration – whether or not they are from neighbours, and whether or not they raise similar issues to other occupants of the same dwelling (provided they are not copies).
Privacy Upper level study window and 5 Monmouth St. Room is only 2m wide and can only be used for a study. It will look directly onto the roof of 1 Monmouth Street (stet). In response to previous concerns fixed privacy slats not more than 30mm side with a 1.6m height is proposed which is fully compliant with Council's DCP and the screens for 1 Monmouth St. Inequitable to require something else. We have a valid consent and we have lodged this DA in good faith. We should not have to pander to unreasonable additional requests from neighbours.	 The original consent requires this Window (W14) to have a minimum sill height of 1.6m above floor level or alternatively, the window is to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this level. The application seeks a change to this position by include slats below 1.6m. It is the applicant seeking a change to what has previously been approved. No cogent reason other than additional height has been provided to change the original requirements, although an additional alternative could be included to require fixed vertical louvres with individual places angled to face south west to ensure that the angle of view is over the roof not over the living room of 5 Monmouth Street. Translucent or obscure glazing could also introduce more light.
W3 facing 1 Monmouth Street A view from a ladder demonstrates that adequate privacy is maintained as it will look at the privacy screens of 1 Monmouth St and has an angled view over the 3m high privacy screen to the rear patio. Viewing is also reduced by the recently planted bamboo. It is the only window that will receive northern sun. No. 1 has large rear windows and windows overlooking the rear yards of the dwellings in Stephen Street. 	It is unclear at what level the photo was taken. The FFL of the proposed first floor will be at RL67.39. The FFL of the first floor of 1 Monmouth is at RL66.79 – 0.6m below the FFL of 3 Monmouth St. See discussion in relation to the submission of 1 Monmouth Street. It is considered that without privacy screening of some form, there will be unreasonable privacy impacts to the rear patio of 1 Monmouth Street. Note that 1 Monmouth Street itself has privacy screens on all of its northern windows. In order to preserve the greatest light it is likely that a condition similar to condition 2(d) of consent DA/190/2021 would provide the greatest level of light whilst protecting the privacy of 1 Monmouth Street. That is recommended.

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Issue	Comment
<p>Balcony</p> <p>It is carefully designed to maintain privacy and includes a 1.6m high privacy screen on the northern and southern side. Similar approach as taken by Council at 15 Monmouth Street DA/910/2014.</p>	<p>The privacy screens were required on the balcony by condition 2(c) of DA/190/2014. Agreed that 15 Monmouth Street was required to have a privacy screen of 1.6m with openings not to exceed 25% of the screen or alternatively a translucent, obscured, frosted or sandblasted glazing in a frame. A difference is that 15 Monmouth Street balcony did not extend beyond the rear setback line established by the other elements of the first floor.</p> <p>The height of 1.6m is able to be overlooked by tall people and the consequences of being able to overlook 1 and 5 Monmouth Street are of particular concern. It is recommended that the privacy screens be extended to 1.8m. This will have a negligible impact on the use of the balcony (given that it is so narrow that its use will be very limited).</p>
<p>Balcony will not result in loss of privacy to the pool or balcony of 5 Monmouth St as they are fully covered by an extensive pergola which extends well beyond the rear setback of 3 Monmouth Street. The pergola covers the main outdoor living area and will not be visible from the balcony. Privacy screens and vegetation assist with privacy.</p> <p>Allegations of illegal poisoning</p>	<p>5 Monmouth Street's vergola has operable blades, allowing for sun if desired. Its height is at RL68.77. The FFL of the balcony is at RL67.39 – 1.38m below the vergola. It extends to the rear well beyond the living room windows and has a reduced rear setback to what is provided for in the DCP. The balcony is opposite some of the rear living room windows. Without privacy fencing there would be the opportunity to see into the living and outdoor areas from the balcony. Vegetation should not be used to ensure privacy, as the applicant is finding it can die. Given the sensitivity a 1.8m high privacy screen is recommended</p>
<p>Neighbours to the rear</p> <p>The site is 1.99m and 2.72m below the rear yard and ground floor of 6 Chepstow St. The FFL of the first floor is only 0.81m higher than the ground floor of 6 Chepstow. The balcony will not result in loss of privacy due to retention of the nature high landscaping along the rear boundary located in a raised garden bed. Additional planting will be placed where the rear shed is being removed. Landscaping will remain</p>	<p>Agreed that 6 Chepstow is approximately 0.8m lower than the proposed first floor.</p> <p>Swimming pool rules require a 1.8m boundary fence (if that is the pool fence). There must be a non-climbable zone. It is unclear how the plants are proposed to be retained given the requirements under the NSW Pool Regulations</p>
<p>Many properties have two storey rear additions with large upper level windows and double glazed doors, eg 2 Chepstow which is 1.2m above the proposed first floor</p>	<p>Two storey elements are common in the area and most if not all have windows to the rear. It is not evident that the view from the balcony with privacy screens will be any more intrusive than the proposed rear windows.</p>
<p>The balcony is off a bedroom and likely to be used less frequently than off a living area. It is also very shallow and only 2m wide which restricts its use</p>	<p>Agreed</p>

Issue	Comment
Others have extensive rear windows, eg 1, 7, 9, 11 Monmouth St. Also 4 Chepstow St whose rear windows overlook the rear yard and kitchen/living/dining area of 3 Monmouth St	Agreed
Overshadowing Proposal complies with FSR, height, building wall height, side setbacks, rear setbacks and site coverage controls	Agreed.
Inevitable that there will be some overshadowing to the property to the south during midwinter due to east/west orientation	Agreed
Only 5 Monmouth is affected – 6 and 8 Chepstow only receive additional overshadowing at 4pm	Likely impact to 6 & 8 Chepstow will occur prior to 4pm -perhaps sometime after 3pm
5 Monmouth St will have more than a portion of north facing windows receiving a minimum of 3 hours in the morning between 8am and noon.	Based on the provided shadow diagrams this is agreed
5 Monmouth Street has a corridor along the northern elevation with its living room predominately located in the rear south eastern corner. Much of the additional shadow will fall in the shadow case by the large pergola roof over the swimming pool	Incorrect. The main living area is in the north eastern corner of the building. Agreed that shadows will partly fall on the vergola, however the vergola can have open blades which allow the sun in. The shadowing on the vergola will affect the volume of sunlight which reaches the living room windows of No. 5 Monmouth because it is not a solid roof
No additional shadow on the primary open space of 5 Monmouth Street at 8am with a slither at noon and minor at 4pm. It will continue to receive 3 hours sunlight	According to the provided shadow diagrams this is agreed in relation to the grassed rear yard. However the swimming pool will likely lose almost all sun in midwinter. The partially covered outdoor area to the east will lose sunlight from about say 10am to 11am. It is unclear whether it will receive 3 hours sunlight midwinter
The DCP allows for merit assessment for variations based on factors such as compliance with other controls and the subdivision pattern	Agreed the proposal easily complies with the FSR, height controls and complies with the setback and site coverage controls. The subdivision pattern makes compliance difficult.
Topography. 3 Monmouth is impacted by 5 Monmouth due to topography and the new timber fence along the boundary which sites 3.0-3.9m higher than existing ground level for the southern windows at 3 Monmouth. It is also overshadowed by 1 Monmouth St	Agreed
Accuracy of shadow diagrams – Peter Banfield has reviewed the survey data and confirmed their accuracy	Noted. See comments below

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Issue	Comment
Views Provides a Tenacity assessment. 8 Chepstow, and 5 and 6 Monmouth imply they have district views but it is not reasonable for the views to be retained because they arise from the under-developed nature of the site and it is not reasonable to suppress development based on distant district partial views.	The underdeveloped nature of the site is not listed as a consideration under <i>Tenacity</i>
8 Chepstow is not visible from 3 Monmouth St due to the hoop pine in 5 Monmouth St and other landscaping. It is likely to retain some views over 5 Monmouth	No pictures of the view from 8 Chepstow were provided, therefore no comment can be made on this matter
7 Monmouth will only lose some minor partial distant district views toward Bondi Junction when standing adjacent to the rear side window. The view will be retained from the upper windows.	The views are available from a standing position in the kitchen and dining and living areas of 7 Monmouth – not just from standing at the rear window. They are also available from the first floor bedroom. They are views of the Bondi Junction skyline over a side boundary. See view analysis below
5 Monmouth Street does not have any distant district views from any side windows due to the boundary fence which is 2.1m above the ground level of the 5 Monmouth St	The very tops of Bondi Junction skyline can be viewed from the kitchen/living dining room from a standing position. Other than for a tall person, the full skyline view is not visible without standing on a chair
First floor addition is modest when considering the controls.	Noted
Views are vulnerable due to under-developed nature of 3 Monmouth Street.	Not a criteria mentioned in <i>Tenacity</i>
Rear setback Complies with DCP – 12.18m and balcony 11.38m when the control is 8m. Only the balcony extends beyond the existing rear setback. There is no consistent rear setback in Monmouth St and Chepstow St. 5 Monmouth Street has a non-compliant rear setback. The first floor cannot be brought forward to the street as it is set behind the original roofline for heritage purposes	Agreed. Council's controls do not require an additional rear setback for upper storeys. Noted the reason for the front setback of the first floor
Excavation pool and existing vegetation Compliant 900mm setbacks for the pool. The excavation will not impact on existing perimeter trees as their roots are located well within a 900mm setback area within a raised garden bed above the rock that will be retained. Vegetation can be planted in the 900mm northern setback 1 and 5 Monmouth Street have previously excavated this rock area to create level outdoor areas.	Retention of boundary trees and vegetation will be subject to swimming pool regulations for non-climbable zones. Both 1 and 5 Monmouth Street have retaining walls in the eastern portion of their yards and deny any recent excavation

Issue	Comment
Survey 1 Monmouth Street's assertions about the accurate of the survey are incorrect. There is correspondence indicating that the 1 Monmouth Street survey was inaccurate	Some correspondence has been provided in this regard. As there is sufficient concern, and the application is seeking to building a pool close to the boundaries, including coping to the boundary a boundary survey should be required prior to construction certificate. This will protect both the neighbours from any construction on their land, and the applicant from having to make expensive alterations after construction.

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6. Relevant Environment Planning Instruments

6.1. 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.

6.2. SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation 2021

The proposal is on the site of an existing dwelling. The provisions of the SEPP have been considered in the assessment of the application. The proposal seeks to continue the existing residential use of the land. There are no known potential sources of contamination on or near the site. Accordingly, the site is considered suitable for the ongoing residential use.

6.3. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the housing needs of the community, recognizes the desirable elements of the existing streetscape and built form and, with conditions, will protect the amenity of residents.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	0.6:1	Yes
Cl 4.3: Building height (max)	9.5m	7.45m	Yes

6.3.1. Clause 5.10 - Heritage conservation

The site is located within the North Randwick Heritage Conservation area and therefore as required by Clause 5.10 of the RLEP consideration must be given to the impact of the development in relation to heritage impacts.

The proposal has been considered by Council's Heritage Planner who has carefully considered Council's controls and the Heritage Impact Statement. The comments are set out in full in Appendix 1 but can be summarised as:

- Preserves the streetscape of the heritage conservation area
- New works are of sufficiently high architectural standard
- Clear distinction between the old and new
- New additions are deliberately less ornate and decorative than the original
- Much lower in height than the LEP control and the DCP wall height with the lowering by 300mm from the original consent
- The front setback is a significant distance from the street and is unlikely to be readily perceived from the street
- Retains the existing front and side setbacks and sufficient rear space

- No changes to the front of the dwelling
- Introduced fabric is consistent with the dwelling and HCA
- No clear and readable schedule of materials, colours and finishes is provided and should be conditioned
- Overall the site complies with the heritage controls
- Privacy from the rear balcony is highlighted as an issue by concerned parties. Recommended the balcony screen could be raised to 2.0m
- A condition for unexpected finds is required
- The springing height of 2.3m is acceptable. The modified hipped formation is placed further back in the dwelling with a decreased footprint and a reduced natural line of sight by being lowered 300mm from the original proposal

6.3.2. *Clause 6.2- Earthworks*

Earthworks are proposed on the site to enable the construction of the pool in the rear eastern portion of the site. This is the part on which there is an existing elevation which, appears likely to include a sandstone ridge. This is an area of up to 1.23 metres high at RL65.13. Additional earthworks will be required to dig the pool which is proposed with a coping level of RL63.91 and a depth of 1.8 metres. Excavation will be up to 3.03m deep.

Clause 6.2 of the LEP requires the consent authority to consider a number of matters including the likely disruption of or any detrimental effects on, drainage patterns and soil stability in the locality of the development, and the effect of the development on the existing and likely amenity of adjoining properties. Engineering details are conditioned to be required prior to excavation

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)(ii) – Provisions of any draft environmental planning instrument	Nil which affect this site.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposed development is consistent with the dominant residential character in the locality. The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	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

8.1.1. Accuracy of Survey

The submitted survey by Paul A Lawson dated 3 March 2020 shows the site boundaries largely along the fence line except along the eastern boundary where the fence is a little inside the boundary. The survey includes the following note:

*If it is intended to build on or near the boundaries of the property further survey should be made to mark the boundaries concerned....
Detail shown is diagrammatic and should not be used to determine setbacks from boundaries...
Dimensions and areas shown hereon have been compiled from information obtained from the Land Titles Office.*

DA/90/2018 approved various works at 1 Monmouth Street and included a survey plan by Total Surveying Solutions (TSS) dated 11 January 2018 which is inconsistent with Paul A Lawson's survey. It illustrates that the boundary fence between number 1 and 3 is set some distance inside the boundary of number 1 – at about 450mm near the existing north-east corner of number 3's building and at about 850mm in the south east corner of number 1. That survey includes the following note:

Boundaries have been determined by survey on 08/01/2018.

An email sent to Council in October 2021 appears to indicate that TSS acknowledged an error in the survey of 1 Monmouth Street and that a revised survey of 1 Monmouth Street was in agreement with the survey of Paul A Lawson.

If the original Total Surveying Solutions survey is correct, there is the potential for the additions to have a setback of potentially about 610mm not the 1060mm shown on the plans. It would also have the potential of the water line of the pool being setback only 50mm or so from the boundary and the pool coping being placed on the land of 1 Monmouth Street.

Council's standard conditions require a registered surveyor's check survey to confirm site setbacks are in accordance with the development consent. Given the proximity of the proposal to the side, it is appropriate that a check survey is undertaken prior to construction certificate to prevent any costly alterations during construction to ensure that the setbacks in the plans are maintained.

8.1.2. Privacy

Balcony

Many of the neighbours are concerned about the potential loss of privacy resulting from the rear first floor balcony. The balcony is approximately 800mm deep and 2m wide (across the rear of the house).

At 11.38m, the balcony is 3.38m beyond the DCP required 8m setback. Windows from the balcony are similar to other rear windows. With the privacy screening on the sides of the balcony, the practical additional adverse impact is that a person could be an additional 800mm closer to the rear boundary than they would be from the bedroom windows. With the privacy screening, the balcony will have the effect of restricting sideways views across the rear yard, so for instance the view from W12 on the north eastern rear will be restricted towards No 5 Monmouth Street by the privacy fencing of the balcony privacy screen.

It is accepted that the only balcony in the area is a balcony for 15 Monmouth Street which does not extend beyond the rest of the rear elevation and the side balcony on 11 Monmouth Street which is screened. The balcony is very small with a floor area of less than 1.6m². It is hard to see it being used regularly, other than to allow for the bedroom door to be open.

It is considered that the privacy fencing to 1.6m should be increased to 1.8m so that the purpose of the privacy fencing is more clearly achieved in relation to taller people.

The purpose of the balcony could well be almost wholly achieved with a Juliet balcony, however it is acknowledged that the additional privacy impacts are small and the size is so small that it is unlikely to set a precedent in the area.

Windows to the south

W14 has been proposed to have a privacy screen to 1.6m high. Further details are not set out in the plans. Consent DA/190/2021 required this window to have a maximum sill height of 1.6m above floor level or alternatively the window is to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below 1.6m. The window is opposite the full length living room windows of 5 Monmouth Street. Whilst it is acknowledged that the room is a study, a slatted design (such as at 1 Monmouth Street) is not preferred for that window. An alternative design which could be offered is fixed vertical louvres directed to look south west over the roof of 5 Monmouth Street. That can be done by conditions.

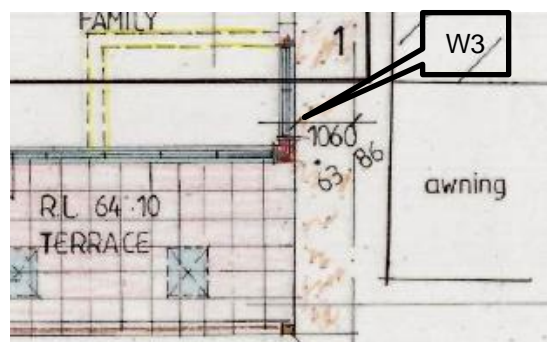
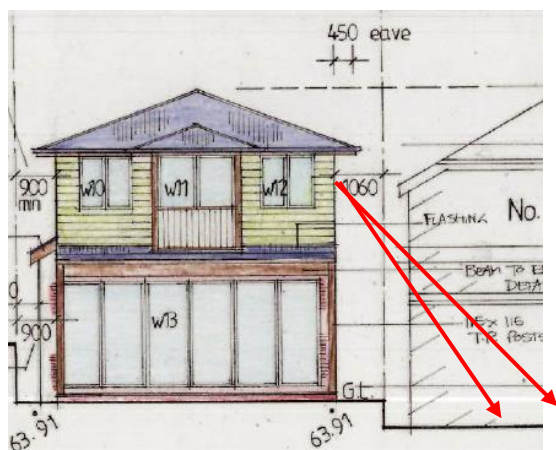
W15 is to the bathroom and is described as a highlight window, although no sill height is set out. Highlight window in Randwick Council are generally with a minimum 1.6m above FFL. This should be conditioned.

Windows to the north

W3 is a window facing north from the first floor main bedroom opposite the BBQ outdoor patio of 1 Monmouth Street. The finished first floor level of No 3 Monmouth Street will be at RL67.39. A person standing at the window will be at about 1.6m or higher with eye level at approximately RL69. The top of the screen on No. 1's southern side of the patio is the height of the pergola at about RL66.3 - just above the boundary fence height. The rear yard of No. 1 is at RL63.3 (approximately). The W3 sill height is not set out in the plans but measures at about 900mm above FFL.

A person standing at the W3 window will have eye level at about 2.7m above the screen and about 5.7m above the rear private open space (see red arrows) below.

The photograph below shows the view from the rear yard of No 1 to the approximate location of W3. It is considered that an unreasonable level of overlooking will result from this window.



It is considered that a condition of consent similar to that for W14 should be imposed in relation to this window, with the alternative of vertical louvres facing to the north west.

Laundry Door

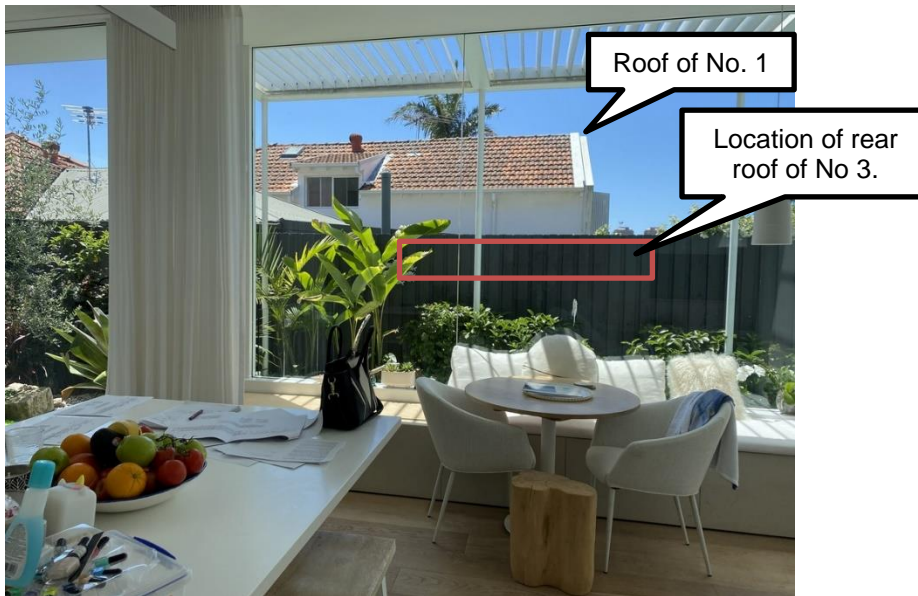
The owner of 1 Monmouth Street would like the laundry door changed to a window to assist in privacy. There are no ground level windows along the southern wall of 1 Monmouth Street in this location. It is not unreasonable for the laundry to have a door, particularly as the clothes line is on the northern wall. The laundry door is considered acceptable.

The stairs to the laundry door are shown as concrete. The owner of 1 Monmouth Street is concerned that this could lead to a pooling of water long this side. The applicant advised in discussions that an open stair arrangement would be acceptable to her rather than a concrete step. This can be conditioned.

8.1.3. Shadow diagrams

The applicant's designer has checked the shadow diagrams and stated that they are correct. An analysis of those shadows diagrams, whilst not definitive, does indicate that there will be shadowing on the living windows at 8am similar to that shown in the shadow diagrams. The site does not face due north, and at midwinter the sun rises to the north-east. It is noted that the current rear section of roof of 3 Monmouth Street is close to the fence height for the rear two living room windows of 5 Monmouth Street (essentially to the western edge of the vergola). Its impact at 8am will be therefore similar to the existing fence.

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View from the living area of No. 5 Monmouth Street looking north

It is noted that the designer is experienced in shadow diagrams and has apparently checked them, including in relation to the differing topographic levels. The owners of No 5 state that they currently receive full sun to these windows almost all day until shortly after 2.30pm in mid-winter, however that is not what is shown as existing in the shadow diagrams.

The DCP control requires north facing living windows of neighbouring dwellings and an area of private open space capable of supporting passive recreation activities, to receive a minimum of 3 hours sunlight between 8am and 4pm.

According to the shadow diagrams a portion of the north facing windows will continue to receive more than 3 hours sunlight in accordance with the control. There is no doubt that the amount of sun will be reduced if the proposal is approved, simply because it is elevated above the fence line and is to the direct north and north west of the living room windows. It is also clear that the rear yard will receive sun during the morning period and from noon will start to be shadowed. The area under the vergola will start to become covered by shadows at say about 11am and it is unclear if the outdoor undercover living area will achieve 3 hours of sunlight.

Because the plans do not show hourly intervals exact estimates cannot be made. The controls consider variations can be subject to a merit assessment taking into account the following factors:

- *Degree of meeting the FSR, height, setbacks and site coverage controls.*
The FSR is 0.6:1 and maximum allowed is 0.75:1. The height is 7.45m and maximum permissible is 9.5m. The rear setback is 11.38m and the requirement is 8m. The side setbacks comply. The site coverage is 43% and the maximum is 55%. The proposal has a very high degree of compliance.
- *Orientation of the site and adjoining allotments and subdivision pattern*
East west orientation with the development proposed to the north makes compliance difficult.
- *Topography of the site and adjoining allotments*
3 Monmouth Street has a rear yard at about RL63.86 and 5 Monmouth's rear yard is at about RL65.4 (1.5m higher). The boundary fence is about 1.9m above the ground floor of 5 Monmouth Street at about RL67.3. The first floor level is proposed at RL67.39 – about 2m higher than 5 Monmouth Street's FFL. The first floor is therefore about 1 metre lower than a first floor would be if the sites were level in topography.
- *Location and level of windows in question*
The windows are floor to ceiling on the northern side

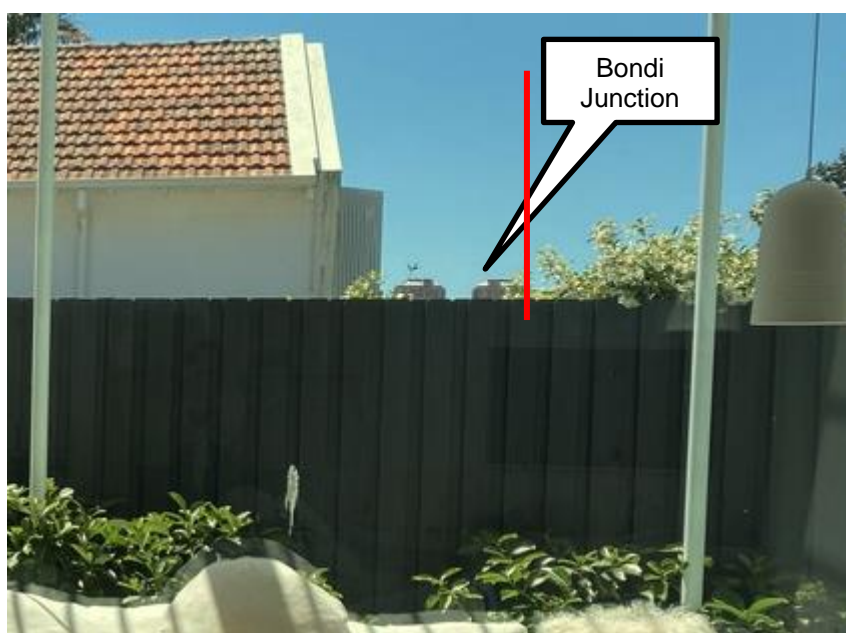
- *Shadows cast by existing buildings on the neighbouring allotment*
This is the element which is in dispute.

The proposal has a low hipped roof form at the rear and is well below the height limit. It provides for a rear setback that well exceeds the DCP controls. Bearing in mind the efforts made to reduce the height of the proposal, including lowering the height of the existing ceilings, the location of the site to the north of 5 Monmouth Street and topography, it is considered that the overshadowing on balance is acceptable. Bearing in mind the provisions of section 4.15(3A)(a) of the Environmental Planning and Assessment Act, and given the already high level of compliance with the bulk and scale LEP and DCP controls it is considered that requiring the amendment to reduce the rear setback by about 1.4m would be unreasonable and not consistent with section 4.15(3A)(a). Such an amendment would either reduce the amenity of the proposed addition for the applicant, or require the first floor to be moved further towards the street – an aspect which would not be acceptable from a heritage perspective.

8.1.4. View Loss

View loss is to be assessed against the principles in *Tenacity*. The residents of 5 and 7 Monmouth Street are concerned about loss of view to the Bondi Junction skyline. Whilst the skyline is mentioned in section 5.6 of Part C1 of the RDCP 2013, it is not indicated as an iconic view (such as Wedding Cake Island). The residents of 8 Chepstow Street state that they will lose a view corridor to the city. An assessment under the *Tenacity* principles is below:

From No. 5 Monmouth Street



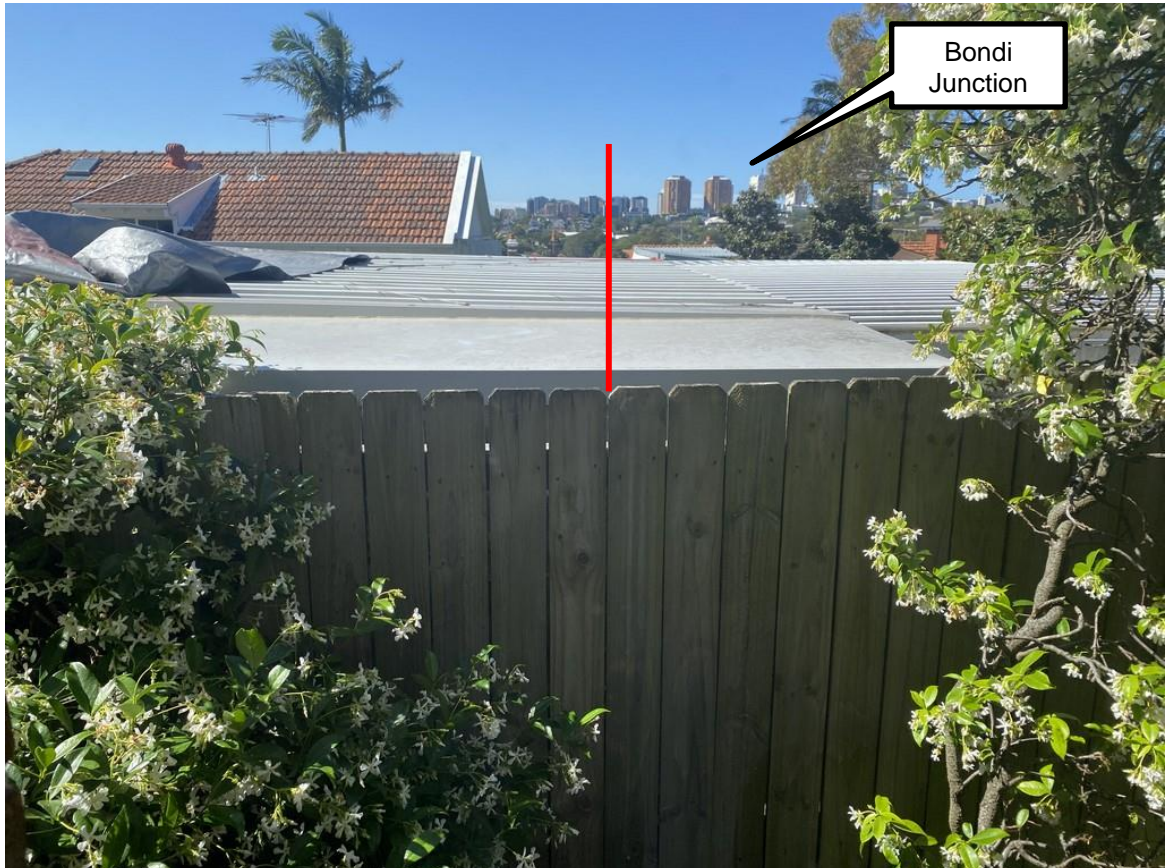
Standing view from the living area of 5 Monmouth Street

- Step 1: The views affected are distant and partial to the top of the skyline to Bondi Junction. It is not iconic. If you stand on a chair or are particularly tall more of the skyline would be available in the view. The red line is a very approximate estimate of the extent of the balcony.
- Step 2: The views are affected across the side boundary from the living and kitchen. Views are affected from a standing position.
- Step 3: The view loss is likely to be almost total. There is no first floor to No. 5 so the site will lose the view it has. In that respect the loss will be devastating.
- Step 4: The reasonableness of the proposal causing the impact is the main issue of contention. The proposal almost wholly complies with development controls, by a considerable margin in terms of FSR, building height, wall height and rear setback – all of which could otherwise improve the retention of the view. *Tenacity* asks in those circumstances whether a more skilful design could provide the applicant with the same

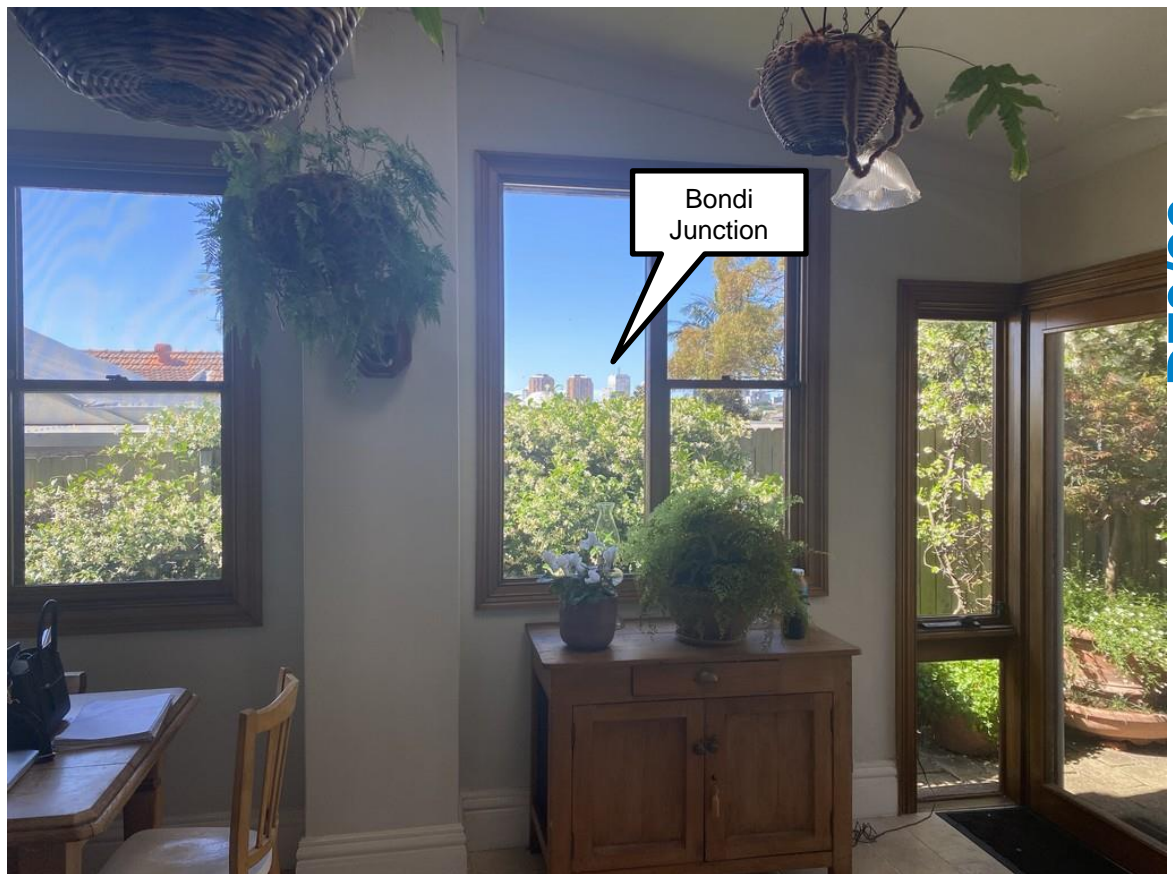
development potential and amenity. The first floor has been pushed to the rear for heritage reasons. The first floor includes a living room, study bathroom and bedroom – none of which are particularly large. The balcony could be removed, however that would have a very minimal impact on the retention of the view.

- Summary. The view is partial, minor, across a side boundary and to the top of the skyline. It is not considered to be a particularly valuable view. The loss would be total, however given the relatively minor value of the view, and the reasonableness of the proposal's building envelope, it is considered to be reasonable.

From No. 7 Monmouth Street



Standing view from the dining area window of 7 Monmouth Street



Standing view from the kitchen of 7 Monmouth Street



Standing view from the upstairs bedroom of 7 Monmouth Street. Approximate roofline shown

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- Step 1: The views affected are distant and are a partial view of the skyline of Bondi Junction. It is not iconic or water views. The red line is an approximate estimate of the extent of the balcony.
- Step 2: The views are affected across the side boundary from the living, dining and kitchen. Views are affected from a standing position.
- Step 3: The view loss from the kitchen/living is partial as the view to the taller buildings will remain. The view from the upstairs bedroom will be retained. Views from the living window closer to the rear will retain more view than the view from near the dining table. View loss could be described as minor.
- Step 4: The reasonableness of the proposal causing the impact is the main issue of contention. The proposal almost wholly complies with development controls, by a considerable margin in terms of FSR, building height, wall height and rear setback – all of which could otherwise improve the retention of the view. Tenacity asks in those circumstances whether a more skilful design could provide the applicant with the same development potential and amenity. The first floor has been pushed to the rear for heritage reasons. The first floor includes a living room, study bathroom and bedroom – none of which are particularly large. The balcony could be removed and that would improve the amount of the view retained but would not retain all of the lower buildings on the left.
- Summary. The view is partial, across a side boundary and to the skyline of Bondi Junction. It will be partially retained from the kitchen/living and fully retained from the upstairs bedroom. The loss is assessed as minor. Given the reasonableness of the proposal's building envelope, it is considered to be reasonable.

8 Chepstow Street

No photographs demonstrating the view to the city which is claimed to be lost were provided. The city is approximately 5.5km to the north west, so views will be distant. Unfortunately time did not extend to visiting the site to check view loss. The single storey 8 Chepstow Street has a threshold at the rear at RL66.56 whereas the proposed first floor level of 3 Monmouth Street will be at RL67.39. 8 Chepstow Street is not visible from 3 Monmouth Street. Chimney pots of 8 Chepstow Street only are visible from the open space area of 5 Monmouth Street to its direct west, but views from the upstairs bedroom of No. 7 Monmouth Street demonstrate that the pine tree in the rear yard of 5 Monmouth Street will likely cause any view from 8 Chepstow to be a partial view. It is noted that 5 Monmouth Street which is directly in front of 8 Chepstow is a single storey development and some views are likely to be retained over that building.

8.1.5. Rear Setback

The submitters have requested that the first floor be moved further forward so that the rear setback is in line with 1 Monmouth Street. They state that (combined with the removal of the balcony) would largely solve their concerns. The first floor was shifted further to the rear at the request of Council's heritage officers. This resulted in a reduction in the originally proposed first floor area. The rear setback of the principle building at the first floor is 12.18m. The balcony reduces the rear setback to 11.38m. The DCP minimum is 8 metres. To require the first floor setback to be approximately 13.58metres is unreasonable in the circumstances, when the principle bulk and scale LEP and DCP controls are easily complied with.

The requested increase in rear setback would improve solar access for 5 Monmouth Street, would reduce the view loss for 7 Monmouth Street, and would likely remove the potential overlooking from W3 to 1 Monmouth Street. It would have little impact on privacy to rear yards as rear windows would still be provided.

On balance it is considered that the rear setback is reasonable in the circumstances.

8.1.6. Excavation, pool and geotechnical information

Council does not normally require a geotechnical report for swimming pools in this type of situation. Some of the area to be excavated appears to be rubble behind a constructed sandstone wall which is deteriorating. There is part of a sandstone rock shelf in the pool location. Engineering requirements before excavation are included in the conditions of consent.

8.1.7. *Water ingress – steps to laundry*

Conditions of consent can be included to require a necessary stormwater plan. Council does not normally approve stormwater plans as part of the development application.

8.1.8. *Landscaping*

No landscape plan has been provided, Council's landscape officer has reviewed the plans and has provided conditions of consent. It is accepted that it is likely that some or all of the vegetation around the pool will need to be removed to comply with swimming pool regulations.

9. **Conclusion**

That the application for Demolition, alterations and additions, including construction of a first-floor addition, minor ground floor extension to the rear, internal refurbishment to the existing dwelling, excavation for an in-ground rear pool, landscaping and ancillary works (Heritage Conservation Area) be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community and with conditions will protect the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.

Heritage impacts

- External works do not add any significant bulk or detract from the heritage significance of the building or the streetscape.
- The proposal complies with Council's heritage controls and has been amended with advice from Council to provide a well-resolved addition in this area of complexity of building types, styles and changes over time, while respecting the important street rhythm and identity of the traditional house typography.

Non-standard conditions are included that require privacy screens to the balcony to be 1.8m, privacy protections to three windows, establishment of boundaries prior to construction certificate, boundary fencing not to exceed 1800mm, stormwater drainage to the kerb and gutter, and permission to remove screen planting around the perimeter of the rear setback.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

This site has been previously detailed within DA/190/2021. In summary it is a character bungalow, retaining numerous original features, that appears to be part of a group setting of three in Monmouth Street Randwick. (Numbers 1-5). It is located in the North Randwick Heritage Conservation Area and is considered highly contributive.

Background

On 20 December 2021, Randwick Council approved DA/190/2021 for this premises at 3 Monmouth Street, under delegated authority. Following contentions concerning the approval of that Development Application under delegation, that consent was voluntarily surrendered in good faith as a condition of the new development consent under sections 4.17 of the Environmental Planning and Assessment Act 1979.

The current DA has been amended to address the conditions of consent of DA/190/2021, which required design amendments prior to a construction certificate being obtained. In particular, several heritage conditions were placed upon that original consent following its review by Council's Heritage Officer in June 2021. These conditions have now been addressed in the current Development Application (DA/534/2022). These included:

- Additional setback behind the principal forward roofing planes
- The hipped roof formation on the introduced upper level to be more subordinate in its relationship to the established front roofing planes, and thus requiring a reduction in overall pitch. The springing line of the upper-level rafters was reduced (from 2.7m to 2.1m)
- From a heritage perspective, a reduction in both overall height, as well as the footprint of the introduced upper level was a positive outcome. The updated proposal has a substantial lessening of visual impact on streetscape or on neighbouring properties
- Strategies for privacy relationships to adjoining properties (though technically more within the remit of Planning)

This current heritage assessment of the previously amended Development Application has been undertaken by an independent heritage officer within Council. It has been conducted upon careful review of the amended plans, the updated Statement of Environmental Effects and the updated Heritage Impact Statement.

Proposal

The Development Application proposes the following works:

- Demolition/removal of internal and external walls, kitchen, doors, windows, parts of the ceiling and sections of the roof (as specified in plans and SEE)
- Construction of first floor rear addition (above existing patio)
- Construction of rear covered deck
- Construction of new internal and external walls, doors, stairs and windows to rear of dwelling
- Internal spatial alterations as specified
- Introduction of skylights in roof
- Excavation of a small portion of the rear site (raised garden bed, including faux rock and natural rock form) for a new in-ground pool

- Removal of extensive paved rear area and some paved side area
- Placement of metal shed in rear yard
- Placement of an air conditioning unit on southern boundary.
- Minor landscaping/planting alterations, including turf

Submission

For the purposes of this heritage assessment the following documents were submitted and have been reviewed:

- Architectural Plans prepared by Peter Banfield Architecture (site plan, existing plans, proposed floor plan, elevations, sections and streetscape elevation). Current version of 24 August 2022 and received by Council 25 October 2022
- A professionally prepared and acceptable Statement of Environmental Effects (SEE) by Sarah Horsfield, town planner, Dated October 2022 and received by Council 25 October 2022
- A professionally prepared and acceptable Heritage Impact Statement prepared by URBIS and dated 24 October 2022 and received by Council 25 October 2022. Attached to this is the previous Heritage Impact Statement of 11 October 2021 addressing amending plans of October 2021
- Survey Plan prepared by Paul A Lawson
- Shadow diagrams prepared by Peter Banfield
- BASIX Certificate

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.

The previous heritage assessment addressed heritage matters of character and context within this HCA, as well as associated fabric, setting and views in line with Clauses 5.10(1) and 5.10(4) of Randwick Local Environmental Plan 2012

The previous heritage assessment also addressed Design and Character, Scale and Form, Detailing, Garden Elements and Swimming Pools in line with the relevant clauses of Randwick Development Control Plan 2013 (DCP 2013).

Comments

A further and independent heritage review has read the previous heritage assessment and found its concerns to be accurate and its directions appropriate. This current assessment has also carefully reviewed the amended plans, the updated Statement of Environmental Effects (SEE) and the updated Heritage Impact Statement (HIS). This assessment outlines and determines the heritage perspectives on the Development Application as follows:

- The proposal preserves the streetscape of the heritage conservation area (HCA) through the retention of the streetscape presentation of the existing bungalow dwelling

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- The proposed new works provide a sufficiently high standard of architectural design, enhancing the presentation of the dwelling as a well resolved solution to incorporating modern amenity within historical footprint. It is noted that the subject architect (personally not known to this assessment officer) has handled numerous such bungalow projects in the Randwick LGA with professionalism and contextual sensitivity, and with a preference for classically prepared drawings
- The proposal clearly distinguishes between old and new so that the new additions are different, yet sympathetic to the existing dwelling and its context within the HCA
- The new additions are deliberately less ornate and decorative than the original dwelling
- The proposal is much lower in height than is permitted under the LEP building height control and the DCP wall height control with the overall roof height having been further reduced by 300mm
- The first-floor addition is setback at a significant distance from the street, and well behind the front façade of the existing dwelling, as well as behind the principal roofing planes. Given the natural lines of sight the addition is unlikely to be readily perceived from the street
- The proposal retains the existing front and side setbacks, as well as sufficient and contained rear space, without any perceived unacceptable disruption of historic patterns
- No changes are proposed to the primary frontage, front porch, front garden of the dwelling, front fence, front bedrooms or hallway, so that most original features of the existing dwelling are retained
- The proposed introduced fabric is consistent with the original dwelling and with dwellings in the HCA, being representative of emerging local domestic patterns. Unrendered brick, painted timber and metal roofs are all present on the existing dwelling and/or other dwellings in the street and broader HCA. The new side fence will be of timber construction
- However, it is noted that apart from the summary 'External Materials Schedule' on Sheet 2 of the Architectural Drawings, it does not seem that a clear and immediately readable schedule of materials, colours and finishes has been provided in the documentation for heritage purposes (See Recommendation below)
- In overall assessment the proposal complies with Council's heritage controls and has been amended in accordance with the advice from Council to provide a well-resolved addition in this area of complexity of building types, styles and changes over time, while respecting the important street rhythm and identity of the traditional house typology
- It is noted that the issue of privacy was indicated in Council's previous heritage assessment, as well as by concerned parties. While more properly within the remit of planning, it is noted that for reasonable privacy to the adjoining properties, the proposed rear balcony width was reduced to a maximum of 2m with the doors corresponding to the amended balcony width and privacy screens introduced. Other solutions have been indicated for side windows (such as opaque glazing or blades). This assessment alerts Council Planning to the specific address of overlook concerns. It respectfully also suggests that the screen height (minimal requirement at present) could be raised 200mm

1.2. Development Engineer

Drainage Comments

Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity.

1.3. Tree manager

On Council's Monmouth Street verge, just past the northern site boundary, is a mature, 12m tall *Lophostemon confertus* (Brush Box) which appears in good health and condition, is protected by the DCP, and along with other similarly sized examples of this same species along the length of both sides of the southern half of the road, are the major feature of this streetscape.

Despite there being no external works proposed in this application, its southern aspect does overhang partially in front of this site, so in recognition of its importance as detailed above, as well as to avoid damage caused by secondary impacts such as trucks, machinery, deliveries and similar, minimal protection measures have been imposed.

There is no established vegetation or landscape elements in the front setback that require comment, and while the planting around the perimeter of the rear yard of this site is noted to assist the owners with partial privacy and screening, none are protected by the DCP or significant enough in any way that they would pose a constraint to the works, including along the northern and eastern boundaries, as well as the Magnolia's along the higher, southern boundary, which the SEE claims may have recently been poisoned by a neighbour.

The plans show that the existing section of exposed bedrock and imported rubble that has been formalised into a raised garden bed across the rear of the site will be lowered down to match the level of the rest of the rear yard (RL63.91), which will improve/maximise accessibility and usability of this private open space, with an in-ground pool to then also be excavated into this same area, across the rear boundary.

It would not be possible to proceed with this pool and associated works while still retaining the perimeter screening plants described above, given both the depth and proximity of excavations that would be undertaken, particularly as they are only growing in shallow soil that is limited by the bedrock, as any disturbance would directly affect their stability.

Pool fencing legislation also prohibits such established planting being located within the 'climbable zone' directly adjacent a pool or boundary barrier, so they could unlikely remain for this reason as well.

As such, Council cannot formally require their retention in this report, with conditions allowing their removal where necessary, subject to low/compliant replacement planting being installed in the 900mm wide garden beds that are shown along the southern and eastern sides on the Pool Plan detail.

It is noted that concerns have been raised by neighbours over the potential of these works to impact vegetation that is growing on adjoining properties; however, the Cooks Pine that is located within the rear yard of no.5 to the south is sited at such a sufficient away, as well as at a higher ground level, and combined with the impervious nature of the bedrock which physically prevents root growth entering the site, means that no impact is expected for this tree.

Similarly, while the southern aspect of the established Gum Tree to the northeast, within the rear of either 2 or 4 Chepstow Street does partially overhang into this site, above the new pool, its trunk originates at a substantial distance away, placing these works at a safe distance where major root damage would be avoided, with clearance pruning also not to be required given the height that these overhanging limbs and foliage are held above ground level, as no conflict would result.

Appendix 2: DCP Compliance Table**3.1 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 = 314m ² Existing = approximately 42% Proposed = 43%	Yes
2.4	Landscaping and permeable surfaces		
	i) 301 to 450 sqm = 25% (78.5m ² required) 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 = 314m ² Proposed = approximately 26-28%	Yes
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	301 to 450 sqm = 6m x 6m	Site = 314m ² Proposed = 8.205 x 12.18	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.75:1 (max 235.5m²)	Site area = 314m ² Proposed 189.27m ² FSR = 0.6:1	Yes
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Proposed = 7.45m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Proposed = 5.87m	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: - 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	Existing = 3.62m Proposed = 3.62m	Similar to existing and no change. Acceptable
3.3.2	Side setbacks:	Frontage is	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>Dwellings:</p> <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. <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	<p>8.485m</p> <p>Minimum= 900mm</p> <p>Existing= 900mm to south and 1.06-1.14 to north</p> <p>Proposed= as existing</p>	
3.3.3	<p>Rear setbacks</p> <p>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</p> <p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	<p>Minimum = 8m</p> <p>Existing = 12.18m</p> <p>Proposed = 9.18m</p>	Yes
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 	<p>Side elevation less than 12m, roof is hipped and recessive to suit the heritage conservation area and set back</p>	Yes
4.4	Roof Design and Features		
	<p><i>Rooftop terraces</i></p> <p>i) on stepped buildings only (not on uppermost or main roof)</p> <p>ii) above garages on sloping sites (where garage is on low side)</p> <p><i>Dormers</i></p> <p>iii) Dormer windows don't dominate</p> <p>iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</p> <p>v) Multiple dormers consistent</p>	<p>No rooftop terraces or dormers. Skylights are provided to the rear terrace</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
	vi) Suitable for existing <i>Celestial windows and skylights</i> vii) Sympathetic to design of dwelling <i>Mechanical equipment</i> viii) Contained within roof form and not visible from street and surrounding properties.		
4.5	Colours, Materials and Finishes		
	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) 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.)	Partially provided but does not include colours. A condition can be included	Can be conditioned
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.	At the rear there will be excavation up to 1.23m before the swimming pool of 1.8m depth. 900mm side a rear setbacks provided	No – exceeds at 1.23m (23% variation) prior to the pool excavation. No retaining wall details are provided for the northern boundary
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.	A portion is likely to obtain 3 hours to the living room. POS – yes achieved	Unknown, probably yes for living room. Yes for POS
	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	Shadow diagrams illustrate 3 hours to a portion of the living room windows. POS will achieve 3 hours	Yes Yes NA

DCP Clause	Controls	Proposal	Compliance
	<p>minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.</p> <p>vi) Variations may be acceptable subject to a merits assessment with regard to:</p> <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	No solar panels on 5 Monmouth Street, and its roof is almost entirely less than 6m above ground	
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	<p>Improved daylight to living area with northern window.</p> <p>Adequate light and ventilation provided on the first floor</p>	Yes
5.3	Visual Privacy		
	Windows		
	<p>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:</p> <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). <p>ii) orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>The study window W14 privacy screen does not show the direction of the screen louvres, however it appears that they are simply slatted. The existing consent condition required W14 treatments which are not in the DA</p>	<p>No. The window treatment for W14 approved in the original consent should remain.</p> <p>Consent conditions should ensure that W15 has a sill height of at least 1.6m.</p> <p>W3 should be subject to the same privacy condition as W14.</p>

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DCP Clause	Controls	Proposal	Compliance
		<p>documents and are a standard condition</p> <p>Alternatives were put to the applicant to have vertical fixed louvres for the whole of the window facing 45 degrees to the south west over the roof of No. 5, however the applicant disliked this proposal.</p> <p>The highlight bathroom window W15 to the south should be conditioned at 1.6m from the floor.</p> <p>Window W3 to the main bedroom should be 1.6m highlight window or treated below this level due to potential overlooking to the rear yard and BBQ terrace of No. 1.</p>	
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>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)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.</p>	<p>The upper floor balcony is approximately 800mm wide. It includes 1.6m high privacy fencing on both sides as previously conditioned.</p> <p>Other two storey elements in the area do not generally have rear balconies</p>	<p>Yes, privacy screens included and could be further conditioned to a 1.8m height</p>
5.4	Acoustic Privacy		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows	Pool equipment located adjacent	Yes – can condition

DCP Clause	Controls	Proposal	Compliance
	<p><i>Attached dual occupancies</i></p> <p>ii) Reduce noise transmission between dwellings by:</p> <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	to the rear yard of No. 5	
5.5	Safety and Security		
	<p>i) dwellings main entry on front elevation (unless narrow site)</p> <p>ii) Street numbering at front near entry.</p> <p>iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place.</p> <p>iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)</p>	Yes – as existing. No change	Yes
5.6	View Sharing		
	<p>i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas.</p> <p>ii) retaining existing views from the living areas are a priority over low use rooms</p> <p>iii) retaining views for the public domain takes priority over views for the private properties</p> <p>iv) fence design and plant selection must minimise obstruction of views</p> <p>v) Adopt a balanced approach to privacy protection and view sharing</p> <p>vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)</p>	View loss is assessed as devastating for No 5 Monmouth but view is poor. View loss for 7 Monmouth is minor	Yes. Whilst the balcony removal could slightly improve it is unlikely to make a substantial difference.
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	<p>i) Maximum 1 vehicular access</p> <p>ii) Locate off rear lanes, or secondary street frontages where available.</p> <p>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></p> <p>iv) Single width garage/carport if frontage <12m; Double width if:</p> <ul style="list-style-type: none"> - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. <p>v) Minimise excavation for basement garages</p> <p>vi) Avoid long driveways (impermeable surfaces)</p>	No vehicular access	NA
7	Fencing and Ancillary Development		

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DCP Clause	Controls	Proposal	Compliance
7.1	General - Fencing		
	i) Use durable materials ii) sandstone not rendered or painted iii) don't use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	1.8m Paling fence proposed on the three boundaries to the pool. No further details	Further details could be conditioned
7.2	Front Fencing		
	i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.	No change	NA
7.3	Side and rear fencing		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.	Other than around the pool no fences are proposed to be amended	Yes
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)	None proposed	NA

DCP Clause	Controls	Proposal	Compliance
	iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> - 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: <ul style="list-style-type: none"> - 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.		
7.5	Swimming pools and Spas		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) Setback coping a minimum of 900mm from the rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	In the rear yard. No arborist report provided. Pool equipment can be conditioned to comply with noise requirements. Coping is setback 900mm from east and south boundaries but not from the northern boundary	i) Yes ii) Council's landscape officer indicates that the hedging around the pool will be removed but the gum to the north and pine to the south will not be affected. iii) can be conditioned iv) It requires excavation following which it will be flat v) Not on north side vi) Not provided and insufficient room vii) No decking viii) Can be conditioned
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.	None is proposed	NA
7.7	Communications Dishes and Aerial Antennae		
	i) Max. 1 communications dish and 1 antenna per dwelling.	NA	NA

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DCP Clause	Controls	Proposal	Compliance
	ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be: <ul style="list-style-type: none"> - Located behind the front and below roof ridge; - minimum 900mm side and rear setback and - avoid loss of views or outlook amenity iii) Max. 2.7m high freestanding dishes (existing).		
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	Not shown	Could be conditioned

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
3.2	Vehicle Parking Rates		
	1. Space per dwelling house with up to 2 bedrooms 2. Spaces per dwelling house with 3 or more bedrooms Note: Tandem parking for 2 vehicles is allowed.	None – no change to existing	NA

Responsible officer: Urban Perspectives, Town Planners

File Reference: DA/534/2022

Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/534/2022
Property:	3 Monmouth Street, RANDWICK NSW 2031
Proposal:	Demolition, alterations and additions, including construction of a first-floor addition, minor ground floor extension to the rear, internal refurbishment to the existing dwelling, excavation for an in-ground rear pool, landscaping and ancillary works (Heritage Conservation Area).
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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations 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	Received by Council
9/18B Sheet 1 of 2	Peter Banfield	24/8/22	25 October 2022
9/18B Sheet 2 of 2	Peter Banfield	24/8/22	25 October 2022

BASIX Certificate No.	Dated	Received by Council
A300=8178_04	12/10/2022	25 October 2022

Amendment of Plans & Documentation

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

- A privacy screen having a height of 1.8m (measured above the floor level of the balcony) shall be provided to both sides of the rear upper level balcony.

The 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.
- 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:
- W3
 - W14
 - W15
- Alternatively, W3 and W14 may have fixed louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings, so that the blades for W14 face to the southwest and the blades of W3 face to the northwest.
- c. Any new perimeter fencing to the rear and side boundaries must not exceed 1800mm in height (measured above the existing ground levels) and also the boundaries be established on site by a Surveyor prior to the installation of any new fencing.
- d. The external stairs to the laundry are to have an open tread to allow flow of water along the northern side of the dwelling.
3. The development consent for DA/190/2021 must be surrendered prior to the issue of a Construction Certificate.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a relevant 'Construction Certificate' is issued for the development by a Registered (Building) Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the relevant construction certificate.

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

Consent Requirements

4. 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

5. The colours, materials and finishes of the external surfaces to the building 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 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.

Section 7.12 Development Contributions

6. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$440,000 the following applicable monetary levy must be paid to Council: \$4,400.00 .

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:

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

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

7. 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 and 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

8. 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/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.

Stormwater Drainage

9. Surface water from building work and structures must satisfy the following requirements (as applicable), 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 requirements of the Building Code of Australia (Volume 2);
 - b) The surface water/stormwater is to be drained and discharged to the street gutter;
 - c) 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;
10. 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.

Street Tree Protection

11. In order to ensure retention of the *Lophostemon confertus* (Brush Box) that is located on Council's Monmouth Street verge, just past the northern site boundary in good health, the following measures are to be undertaken:
 - a) All documentation submitted for the Construction Certificate application must show its retention, along with the position and diameter of both its trunk and canopy in relation to the site.
 - b) Prior to the commencement of any works, its trunk (as well as any other lower growing branches) 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 must 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, DO NOT REMOVE".
 - d) **The applicant is not authorised to perform any other works to this street tree and must contact Council's Landscape Development Officer on 9093-6613 should clearance pruning or similar be necessary, GIVING UP TO SIX WEEKS NOTICE. If approval is given, it can only be performed by Council, wholly at the applicants cost, with payment to be received prior to pruning and any Occupation Certificate.**

- e) There is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble around this tree, with all Site Management Plans to comply with this requirement.
- f) The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works, and prior to any Occupation Certificate.

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 relevant construction certificate for the development.

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

Building Code of Australia

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

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

Structural Adequacy

- 13. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the *Certifier (and the Council, if the Council is not the Certifier)*, certifying the structural adequacy of the existing structure to support the additional storey.

BASIX Requirements

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

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

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

Excavations & Support of Adjoining Land

- 15. Details of proposed excavations and support of the adjoining land and buildings are to be prepared by a professional engineer and be included in the construction certificate, to the satisfaction of the appointed Certifier.
- 16. A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the *Principal Certifier*:

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

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

Swimming/Spa Pools

17. Swimming Pools and Spa Pools are to be designed and installed in accordance with the requirements of the *Building Code of Australia* and be provided with a child-resistant barrier in accordance with the *Swimming Pools Act 1992*; the *Swimming Pools Regulation 2018* and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools). Details of compliance are to be provided in the Construction Certificate.

Temporary pool safety fencing is also required to be provided to swimming pools pending the completion of all building work and swimming pools must not be filled until a fencing inspection has been carried out and approved by the Principal Certifier.

Note: This development consent does not approve the design and location of swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.

18. Swimming pools are to be designed, installed and operated in accordance with the following general requirements:
- Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation.
 - Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance.
 - Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems.
 - Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

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

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

Building Certification & Associated Requirements

19. The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):
- a) a *Construction Certificate* must be obtained from a *Registered (Building) Certifier*, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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

Home Building Act 1989

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

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

Dilapidation Report

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

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

Construction Site Management Plan

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

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

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

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

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

Construction Noise & Vibration Management Plan

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

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

Demolition Work

25. A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:

- a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.
- b) The Demolition Work Plan must include the following details (as applicable):
 - The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
 - Details of hazardous materials in the building (including materials containing asbestos)

- Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne dust and asbestos
- Methods and location of disposal of any hazardous materials (including asbestos)
- Other measures to be implemented to ensure public health and safety
- Date the demolition works will commence/finish.

The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

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

Notes: *it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.*

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

Public Utilities

26. 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.
27. 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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity during construction.

Site Signage

28. A sign must be installed in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:
 - name, address, contractor licence number and telephone number of the principal building 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

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 3.00pm (maximum) • As may be further limited in Noise & Vibration Management Plan • 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.

Construction Site Management

30. Temporary site safety fencing must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works.

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

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

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

Notes:

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

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

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines.
- g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

Demolition Work & Removal of Asbestos Materials

32. Demolition work must be carried out in accordance with relevant SafeWork NSW Requirements and Codes of Practice; Australian Standard – AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.

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

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro),

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

Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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 and Support of Adjoining Land

33. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details.

Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.

Building Encroachments

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

Survey Report

35. 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:

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

The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.

Unexpected historical finds

36. In the unlikely event that historical archaeological remains or deposits are exposed during the excavation works in the rear yard space, 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.

Tree Management

37. No objections are raised to removing any of the screen planting around the perimeter of the rear setback, such as the Murraya's and Magnolia's, where necessary given their conflict with excavations associated with removing the bedrock/rubble and lowering of ground levels across the rear boundary for the new in-ground pool in this same area, and is subject to replacement screen

planting that is compliant with Pool Fencing legislation being provided back within the newly created 900mm wide garden beds that are shown along the eastern and southern sides of the pool.

Road / Asset Opening Permit

38. 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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

39. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

BASIX Requirements & Certification

40. In accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that 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.

Council's Infrastructure, Vehicular Crossings, street verge

41. 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.
42. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:

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

43. That part of the nature-strip upon Council's footway which is damaged during works 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.

Swimming Pool Safety

44. Swimming Pools are to be provided with a child-resistant barrier (i.e. fence, in accordance with the *Swimming Pools Act 1992*; the *Swimming Pools Regulation 2018* and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).
45. A 'warning notice' must be installed in a prominent position in the immediate vicinity of a Swimming Pool [or Spa Pool], in accordance with the provisions of the *Swimming Pools Regulation 2018*, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.
46. The owner of the premises must 'register' their Swimming Pool on the NSW Swimming Pool Register, in accordance with the *Swimming Pools Act 1992*. The Swimming Pool Register is administered by the NSW Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.

Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifier and Council accordingly.

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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

- External Lighting**
47. 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**
48. The operation of all plant and equipment (including air conditioners and pool pumps or other equipment) on the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

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