

# Randwick Local Planning Panel (Public) Meeting

Thursday 8 June 2023



## **RANDWICK LOCAL PLANNING PANEL (PUBLIC)**

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting will be held in the Coogee Room on Thursday, 8 June 2023 at 1pm

### **Acknowledgement of Country**

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

### **Declarations of Pecuniary and Non-Pecuniary Interests**

#### **Address of RLPP by Councillors and members of the public**

*Privacy warning;*

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

### **General Reports**

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Kerry Kyriacou  
**DIRECTOR CITY PLANNING**

## General Report No. GR1/23

### Subject: Draft Planning Proposal - Randwick Junction Town Centre

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#### Executive Summary

- Randwick City Council has prepared a draft Planning Proposal for the Randwick Junction Town Centre that seeks to amend the Randwick Local Environmental Plan 2012 (RLEP 2012) by creating new provisions relating to zoning, heritage, height of buildings, floor space ratio, design excellence, affordable housing, and active street frontages. These amendments to the RLEP are informed by a detailed review of existing planning controls, built form and heritage considerations, opportunities, and constraints.
- The draft Planning Proposal sets out the changes to achieve a future town centre that will have a strong economically viable commercial component; high standard of design excellence and sustainability; greater heritage protection; new areas of public domain, footpath widening; and a range of improvements including landscaping treatments, and greening opportunities. Changes proposed are: extension to the business zone; modest height increases on the majority of sites; changes to the maximum floor space ratio; new active street frontages; special heritage clause; affordable housing levy and minimum non-residential floor space.
- This report provides an overview of the draft Planning Proposal; a brief summary of the Randwick Junction Town Centre Planning Strategy (see **Appendix 1** under separate cover) that preceded the draft Planning Proposal; and a summary of key issues and outcomes arising from the advice received from the various technical studies.
- The proposed amendments are supported by an economic feasibility analysis undertaken by SGS; a heritage assessment by City Plan Heritage (**Appendix 2** under separate cover); and an inhouse urban design analysis (**Appendix 3** under separate cover) to ensure that any changes to built form controls would support feasible redevelopment that is sympathetic to the heritage values and significance of the Randwick Junction Heritage Conservation Area. Other supplementary technical studies for traffic/transport and flooding have also informed and shaped the draft Planning Proposal
- This report seeks the Randwick Local Planning Panel's advice that it generally supports the recommendations for the Randwick Junction Planning Proposal within this report as being consistent with the strategic planning directions outlined within the Local Strategic Planning Statement.
- In accordance with the Council resolution dated 23 May 2023, this report also seeks the Randwick Local Planning Panel's advice on further measures to protect the integrity of heritage and contributory buildings not categorised as "Highly valued heritage properties" (that is, properties that are listed on the State Heritage Register or locally listed heritage items).

#### Recommendation

- 1) That the Local Planning Panel advises Council that it supports the recommendations set out below:
  - a) Amend RLEP 2012 and accompanying land zoning map to rezone R3 Medium Density Residential land to E2 local Centre for the following group of properties:
    - Nos. 119, 121, 123, 125 and 127-129 Alison Road
    - Nos. 1-9 Silver Street
    - Nos. 144 Avoca Street

- Nos. 42 – 44 Waratah Avenue,
  - Nos. 63-69 Arthur Street
  - No. 9 Arthur Lane
  - No. 62 High Street
- b) Amend RLEP 2012 and accompanying land zoning map to rezone land zoned E2 Commercial Centre (formerly B2 Local Centre) to RE1 Public Recreation for Waratah Plaza.
  - c) Amend the RLEP 2012 and accompanying Height of Building maps to allow the maximum permissible building heights shown in Figure 5: Proposed Height of Building of the draft Randwick Junction Planning Proposal.
  - d) Amend the RLEP 2012 and accompanying Floor Space Ratio map to allow the maximum permissible floor space ratios shown in Figure 6: Proposed Floor Space Ratio of the draft Randwick Junction Planning Proposal.
  - e) Amend the RLEP 2012 and accompanying Floor Space Ratio map to allow the minimum permissible non-residential floor space ratios shown in Figure 7: Proposed Minimum Non-residential Floor Space Ratio of the draft Randwick Junction Planning Proposal.
  - f) Amend the RLEP 2012 and accompanying maps to remove the Floor Space Ratio and maximum height limit within the Short Street reserve as shown in Figures 11: Existing and proposed maximum height limit - Short Street anomaly and Figure 12: Existing and proposed FSR- Short Street anomaly of the draft Randwick Junction Planning Proposal.
  - g) Amend the RLEP 2012 and the accompanying Active Street Frontages Map to include provisions for active street frontages shown in Figure 8: Proposed Active Frontages of the draft Randwick Junction Planning Proposal.
  - h) Amend the RLEP 2012 to include matters for consideration for design excellence in Randwick Junction as described in Section 4.4 Design Excellence of the Randwick Junction Planning Proposal.
  - i) Amend the RLEP 2012 to include provisions for heritage protection, restoration and renewal of heritage and contributory buildings within the heritage conservation area, and heritage items, in Randwick Junction as described in Section 4.8 Heritage Requirements for RJTC of the Randwick Junction Planning Proposal.
  - j) Amend the RLEP 2012 and accompanying maps to include an affordable housing provision for the Randwick Junction town centre as shown in Figure 4: Randwick Junction Affordable Housing Contributions Area and Table 1: Affordable housing percentage equivalent monetary contribution rate of the draft Randwick Junction Planning Proposal
- 2) That the Local Planning Panel advise Council on further measures to ensure that the integrity of heritage and contributory buildings (that is properties not categorised as State Heritage Inventory and local heritage items) is protected.

#### Attachment/s:

- |  |                               |
|--|-------------------------------|
| 1. Randwick Junction Planning Strategy   | Included under separate cover |
| 2. Heritage Assessment Randwick Junction - City Plan Heritage                      | Included under separate cover |
| 3. Urban Design Report - Randwick Junction Town Centre                             | Included under separate cover |
| 4. Director City Planning Report No. CP10/23 - Randwick Junction Planning Proposal | Included under separate cover |
| 5. Randwick Junction Draft Planning Proposal                                       | Included under separate cover |



## Purpose

This report is seeking advice from the Randwick Local Planning Panel (RLPP) on the merits of the draft Planning Proposal for the Randwick Junction Town Centre. The proposed changes implement the relevant planning priorities and actions of the Randwick Local Strategic Planning Statement (LSPS) in relation to heritage conservation in Randwick City.

This report to the RLPP is in accordance with Ministerial Direction (9.1 Local Planning Panels – Planning Proposals) which requires that councils refer planning proposals to local planning panels for advice.

The draft Planning Proposal sets out the changes to achieve a future town centre that will have a strong economically viable commercial component; high standard of design excellence and sustainability; greater heritage protection; new areas of public domain, footpath widening; and a range of improvements including landscaping treatments, and greening opportunities. Changes proposed for the town centre are: extension to the business zone; modest height increases on the majority of sites; changes to the maximum floor space ratio; new active street frontages; special heritage clause; affordable housing levy and minimum non-residential floor space.

The proposed amendments are generally supported by the feasibility analysis undertaken by SGS; heritage review by City Plan Heritage; and inhouse urban design analysis to ensure that any changes to built form controls would support reasonable feasible redevelopment that is sympathetic to the heritage values and significance of the Randwick Junction Heritage Conservation Area. Other supplementary technical studies for traffic/transport and flooding have also informed and shaped the draft Planning Proposal.

## Discussion

### Location and context

The Randwick Junction Town Centre (RJTC), is focused on three key streets, being Belmore Road, High Street and Avoca Street, and has evolved as a vibrant, fine grain mixed use centre with a range of convenience retail, local services, community, and business uses. The centre also has a significant number of health/medical related uses due to its strong relationship with the adjacent Randwick Hospitals Campus.

The commercial strip has a predominant fine-grain built form with 2-3 storey buildings which are mostly shop top housing developments. The town centre also contains two large commercial anchors being the Royal Randwick Shopping Centre and Randwick Plaza alongside smaller businesses.

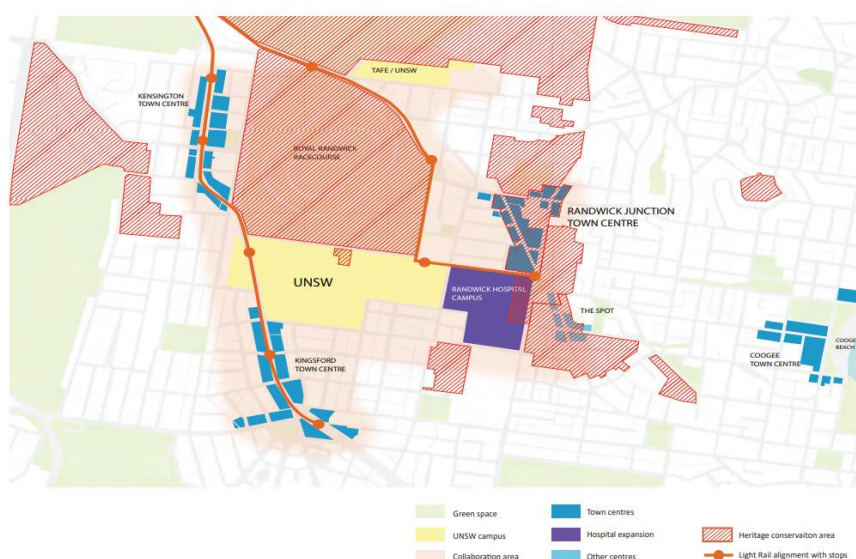


Figure 1: Randwick Junction Town Centre and locational context

The RJTC forms part of the wider Randwick Education and Health Strategic Centre (outlined in the Eastern City District Plan) which contains the cluster of the UNSW Kensington and the Randwick Hospital Campuses as the three main areas of projected employment growth in the Randwick City LGA through to 2056. The town centre is well serviced by public transport, with the High Street Light Rail stop and frequent bus routes to the CBD, Bondi Junction, Maroubra and Mascot, with connections to other parts of Sydney.

### Background

The planning review process for the RJTC commenced in 2016 (see time-line in Figure 2 below) with background investigations and baseline information gathering. This review process culminated in the preparation of an Issues Paper which was endorsed by Council in June 2016. The Issues Paper provided a detailed review of existing conditions and identified a range of planning, urban design and public domain challenges affecting the town centre.

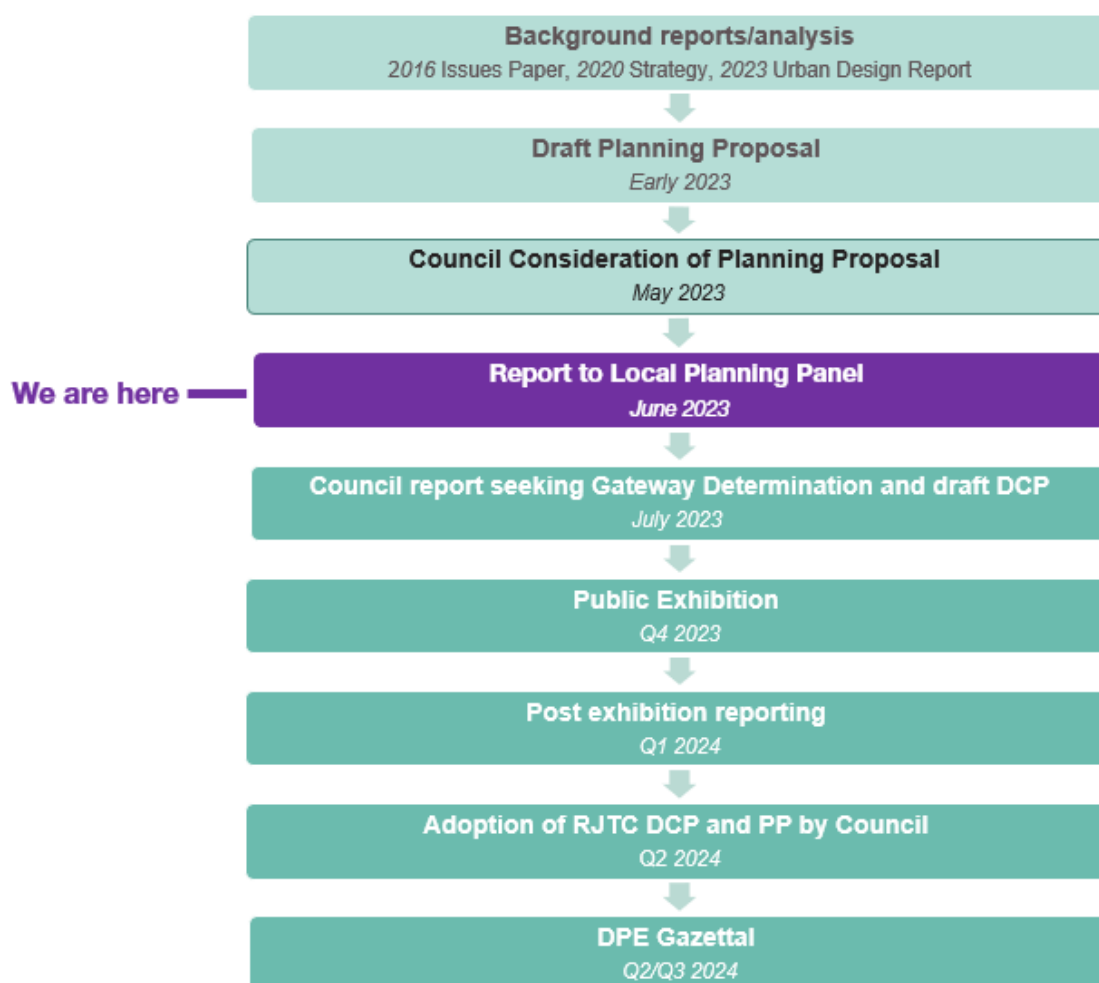


Figure 2: Randwick Junction Town Centre Review Time-line

### Randwick Junction Planning Strategy 2020

Based on the analysis in the Issues Paper, a Planning Strategy was prepared in 2020 which was publicly exhibited from 11 November to 8 December 2020. This included consultation with residential and business community groups, including the Randwick precinct committee; landowners; State government agencies and Waverley Council.

The draft Strategy sets the vision, actions, and strategies to guide balanced growth in the town centre and recommends planning changes to height and FSR. It aims to balance the significant heritage qualities and its local character with the need to plan for economically viable commercial

floorspace to meet future expected demand for employment and economic activity whilst also providing for residential development including affordable housing.

In preparing the Strategy, discussions were held with property owners and stakeholders to inform them of the planning review process including research and analysis of the future role of RJTC in meeting and supporting the land use and employment demands of the surrounding health and education precinct and how the future role of the town centre will be shaped by this demand. Landowners were informed that planning controls under the Randwick Junction Strategy and its ensuing Planning Proposal, are primarily focussed on retail and commercial growth, with supporting residential development as well as public domain improvements and public benefits.

The key drivers of the Strategy remain relevant and valid for the Planning Proposal which are to:

- Develop appropriate planning controls for moderate increases in height and floor space that will enable the centre to support commercial activity, jobs growth, residential and affordable housing in line with regional and metropolitan strategies;
- Address affordable housing needs for key workers;
- Encourage development that is compatible with and sensitive to the heritage significance and character of the town centre and the Randwick Junction Heritage Conservation Area;
- Recognise and carefully manage larger consolidated sites where additional heights and floor space may be achievable subject to the delivery of public outcomes including affordable housing and design excellence;
- Recognise and outline improvements to public spaces, including footpath widening and new public gathering places, and encouraging interaction between people and activated spaces.
- Encourage streetscape renewal, laneway activation and night-time economy initiatives.
- Ensure a coordinated strategic approach to future development rather than ad hoc site-specific planning proposals.

A key component of the Strategy that has been adapted into the draft Planning Proposal is the delineation of the future built form of the town centre into three key typologies namely as follows:

- *Strategic sites* – these are sites that contain larger, consolidated floorplates and are less constrained by heritage considerations for mid-rise development envelopes; and/or are close to transport stops.
- *Infill sites* – sites that can be amalgamated for medium scale redevelopment that includes detracting, low sensitive heritage, and contributory properties.
- *Heritage sensitive sites* – sites that have valuable heritage items or contributory buildings that can only accommodate minor incremental development such that minimal increases or no change to the current height and FSR controls are proposed.

. The Strategy recommended the following essential urban design principles:

- A street wall height limit of up to 3 storeys especially along the main thoroughfares of Belmore Road, Alison Road, and Avoca Street;
- Additional fourth storey to be setback by 4m
- Potential for additional floorspace to the rear extensions and along laneways where applicable so that these are not visible from front streets where heritage streetscapes need to be preserved.

#### Council resolution – Draft Planning Strategy

At the Council Meeting on 27 April 2021, Council considered the draft Randwick Junction Strategy and resolved as follows:

- a) Defer the Randwick Junction Strategy and report back to Council on the findings of further feasibility analysis and fine grain urban design modelling against heritage values;

- b) Agree to incorporate the following heritage items in the draft Randwick Comprehensive Planning Proposal:
  - i. 1 Belmore Road, 167-171 Alison Road and 179-181 Alison Road, Randwick
  - ii. extend the curtilage of the heritage item at No 60 Belmore Road to include the adjoining address known as 25 Waratah Avenue Randwick

In line with Council's resolution, and as referred to above, Council engaged SGS Economics and Planning (SGS) to undertake detailed feasibility analysis of the building envelopes proposed for key opportunity and infill sites within the town centre as originally outlined in the Planning Strategy and further refined in the draft Planning Proposal. Additionally, Council engaged City Plan Heritage to provide a heritage assessment of the proposed building envelopes which has further guided the proposed built form outcomes contained in the draft planning proposal. An Urban Design study has also been prepared inhouse that sets out the built form strategy for the town centre based on detailed 3D modelling to test and refine building envelopes across key strategic as well as fine grained sites as informed by the economic feasibility and heritage studies. These three key studies have been instrumental in guiding and informing the preparation of the Planning Proposal. The findings and recommendations of these studies are discussed in detail in relevant sections below.

The heritage items identified in Council's resolution (i.e., 1 Belmore Road, 167-171 Alison Road, 179-181 Alison Road, and 25 Waratah Avenue) have now been incorporated in the finalised Randwick Comprehensive Planning Proposal and will be listed in Schedule 5 of the Randwick LEP as heritage items in the near future pending Council's response to issues raised by the Department of Planning and Environment as detailed in the Council business report CP9/23 to the Council Meeting on 23 May 2023.

#### Council resolution – Draft Planning Proposal

At the Council Meeting on 23 May 2023, the draft Planning Proposal was presented for Council's consideration and endorsement in the Council business report CP10/23 (**Appendix 4** under separate cover), at which Council resolved to:

- a) endorse the draft planning proposal for the Randwick Junction Town Centre (Appendix 4) for submission to the Randwick Local Planning Panel for advice; and
- b) request that the Randwick Local Planning Panel consider further measures to ensure that the integrity of heritage and contributory buildings not categorised as "Highly valued heritage properties" (as per p.68 of the business paper) is protected.

In response to resolution a), this report outlines all the proposed changes contained in the draft Planning Proposal in the relevant Section below for the Panels consideration and endorsement.

In relation to resolution b), to assist the Panel in this request, a new heritage provision in the RLEP 2012 is proposed to apply to development proposals on all sites within the Centre, as detailed in the draft Planning Proposal document. The Panel's advice is sought in this regard.

## **Issues**

### **Feasibility, heritage assessment and urban design studies**

As mentioned above, to address Council's resolution from its meeting of 27 April 2021 for further feasibility analysis and fine grain urban design modelling against heritage values, the following additional studies/assessments have been undertaken:

- **Feasibility analysis (SGS)**

Council commissioned SGS Economics and Planning (SGS) to provide expert advice and feasibility analysis to inform the planning of the RJTC. Estimated yields for a range of Strategic and Infill test sites were provided to SGS in the form of 3D modelled building envelopes with associated Gross Floor Areas (GFA) and the resulting Floor Space Ratios (FSR). The sites tested are shown in Figure 3 below:

## LOCATION OF TESTING SITES



Source: SGS, 2022.

Figure 3: Strategic and Infill feasibility test sites

The modelling applied by SGS employed the concept of Residual Land Value (RLV) to show the viability of each of the sites provided to SGS. RLV is a term that characterises the monetary remainder (residual) from the gross return of a site's redevelopment, after accounting for all development costs (construction, soft costs, developer fees, etc.). The RLV is a gauge for a developer's maximum willingness to pay for land (site) acquisition. In SGS's study, RLVs are assessed for:

- 1) the "As-is" use and
- 2) the redevelopment uplift scenarios.

The "As-is" value is the investment value of a site based on its existing uses, i.e., its investment value. It functions as a minimum threshold which the redevelopment RLV must exceed for a redevelopment to be viable. These "As-is" values are determined by applying sales or lease rates to saleable/leasable floor area of non-residential components (using existing floor space information provided by Council) and accounting for yield factors (sourced from the Valuer General of NSW, Real commercial and Commercial Real Estate recent local sales and rentals data). The threshold for redevelopment viability could be materially lower than the "as-is" values if an owner has a lower "basis" in the land (e.g purchased long ago) or if its condition warrants financial reinvestment.

Using the RLVs for "Redevelopment Scenarios and "As-is" use, viability is then measured for each site whereby viability refers to a condition in which sufficient financial feasibility exists when measured by the difference between the Redevelopment Scenario RLV and the 'As-Is' Existing Use RLV. The greater the positive difference between these two measures, the more likely a landowner may be willing to sell or redevelop. SGS's viability assumption includes a 15% premium for amalgamation of sites where there is multiple ownership.

FSRs and affordable housing rates for each of the test sites assessed by SGS in Figure 3, are shown below and are compared to the draft planning proposal:

#### Strategic Sites

- **Site 1** (Randwick Club site and two residential properties at 119 and 121 Alison Rd Randwick) – redevelopment at FSR of 3:1 is viable at 7% residential floor as affordable housing levy.



*Draft Planning Proposal:*

The proposed FSR on this site following design modelling is 2.5:1 with 3% affordable housing levy (for the western section); and 3:1 (see Figure 23) with 7% (Figure 25) proposed affordable housing for the remainder. A reduced FSR on the western part of the site is proposed to accommodate a stepping down of the building envelope to ensure appropriate scale transition.

- **Site 5a** (Gateway sites: 160-162 Belmore Rd, 164 Belmore Rd and 166-168 Belmore Rd) – redevelopment at FSR of 3.8:1 is viable, as is the inclusion 9% of residential floor area as affordable housing

*Draft Planning Proposal:*

The proposed FSR on this site following design modelling is 4:1 (see Figure 23) with 9% (Figure 25) proposed affordable housing. A minor increased FSR is proposed to account for two through site links from High Street and Belmore Rd and a new shared urban plaza at the rear.

- **Site 5b** (Randwick Plaza site) – redevelopment at FSR of 2.4:1 is viable, as is the inclusion of approximately 3% of residential floor area as affordable housing

*Draft Planning Proposal:*

The proposed FSR on this site following design modelling is 2.75:1 (see Figure 23) with 3% (Figure 25) proposed affordable housing. A minor increased FSR is proposed to account for two through site links from High Street and Clara and a new shared urban plaza at the rear.

- **Site 8** (Royal Randwick Shopping Centre site) – redevelopment at FSR of 2.75:1 is not viable. A significant additional increase in FSR of 1.25:1 is required to reach viability. An affordable housing rate of 3% was modelled.

*Draft Planning Proposal:*

The proposed FSR on this site following design modelling is 2.75:1 (see Figure 23) with 3% (Figure 25) proposed affordable housing.

- **Site 2** (Former CBA site: 4 Elizabeth St, 16 to 22-24 Belmore Rd) – with full commercial use, redevelopment FSR of 3.5:1 is not viable.
  - with a combined residential and commercial use, redevelopment FSR of 3:1 is viable, as is the inclusion of approximately 7% of residential floor area as affordable housing

*Draft Planning Proposal:*

The proposed FSR on this site following design modelling is 3:1 (see Figure 23) with 7% (Figure 25) proposed affordable housing.

Infill Sites

- **Site 6** (Alison Road sites – 1 to 11-15 Belmore Rd and 167 to 183-185 Alison Rd) – redevelopment at FSR of 2.7:1 may be viable without affordable housing. An additional 0.25 FSR would be required to be viable with 2% affordable housing

*Draft Planning Proposal:*

The proposed FSR on this site following design modelling is 2.5:1 (see Figure 23) with 2% (Figure 25) proposed affordable housing. A slight reduction in FSR on the site is proposed to accommodate a street setback for outdoor dining/street activation and stepping down of the building envelope to ensure appropriate scale transition to Bell Lane.

- **Site 7** (Belmore Road West Facing sites: 21 to 35-43 Belmore Rd) – redevelopment FSR of 2.5:1 is viable, as is the inclusion of 3% of residential floor area as affordable housing

*Draft Planning Proposal:*

The proposed FSR on this site following design modelling is 2.25:1 (see Figure 23) with 2% (Figure 25) proposed affordable housing. A slight reduction in FSR on the site is proposed to accommodate through site links.

In a number of test sites, the proposed FSRs have been varied from that recommended by SGS i.e Sites 1 (western part), 6, 7 and 8. SGS has noted in their report that lease rates and sales prices apply to consolidated sites and not on a site by site basis. Therefore, lease rates and sale process can vary and differ from those modelled, hence the viability threshold could be lower e.g if a site has been in ownership for a long time. Property owners may still redevelop because the rate of return over time provides financial benefits to warrant reinvestment.

### **Employment analysis**

The SGS study highlighted the significance of the Randwick Junction Town Centre, along with the UNSW Kensington and the Randwick Hospital Campuses as the three main areas of projected employment growth in the Randwick City LGA through to 2056. The Study also indicated that retail floor space and employment in RJTC is projected to grow at a slower rate in the short-medium term, and to return to pre-Covid growth rates within the next 8-10 years.

Considering employment in Randwick LGA as a whole, Covid adjusted growth projections are for an increase of 28,555 new jobs in the Randwick LGA in the period 2016-2041 (SGS, 2021). Transport for NSW data shows that the University of NSW will have employment growth of 5,000 – 10,000 jobs between 2016 – 2041, noting that the proposed UNSW Health Translation Hub will deliver 495 jobs (Ethos Urban, 2022). A similar range of 5,000-10,000 jobs has been projected for the Randwick Health Campus between 2016 – 2056, noting that the Stage 1 expansion of the Prince of Wales Hospital comprising the new 13 storey Acute Services Building will be delivering 260 new operational jobs from 2023 onwards (DPE, 2019). For the RJTC, Council desktop modelling based on the proposed uplift of floor space indicates approximately 450 new jobs in the town centre under the draft planning proposal.

The RJTC is identified, along with the UNSW Kensington and the Randwick Hospital Campuses as the three main areas of projected employment growth in the Randwick City LGA through to 2056 (South East Sydney Transport Strategy, Aug 2020). This is consistent with the collective role of the university campus; the hospital complex and the RJTC as the major employment generator of the Randwick LGA. However, employment in the RJTC is projected to grow at a slower rate in the short-medium term but return to pre-Covid growth rates within the next 8-10 years (SGS, 2021).

The future development and growth of this precinct will generate a demand for more floor space for retail/commercial/medical uses. RJTC's role in this context, given its location as the terminus of the CBD and South East Light Rail route, and interface with the Randwick Education and Health Strategic Centre, is as a mixed-use precinct that will support the Hospital and University Campus' growth and liveability for workers, residents and students. Data from UNSW (2022) indicates that around 7,000 students are projected to return from overseas to UNSW every year over the next few years to undertake face-to-face learning.

The draft Planning Proposal has been primarily driven by the need for employment floorspace in the town centre to support expected growth expected across the Health and Education precinct. It is recognised that residential and mixed-use developments have shaped and historically contributed to the town centre's character and will continue to play an important role in supporting future vitality and economic growth. Therefore, whilst the urban design and feasibility modelling for each block attempts to optimise commercial floor space, it has also allowed for residential uplift. This potential demand, as highlighted in the SGS report, will be in education and health related activities within the town centre including medi-hotels, medical suites, day hospital, diagnostic and imaging centres, digital health and co-working spaces.

A desk top analysis by Council officers of the town centre's existing employment floor space has identified that the centre currently has a lower quantity of floor space than that required to service future health and education floor space requirements of the major institutions. Furthermore, under the current planning controls, it is unlikely that additional employment floorspace can be generated to meet the supply deficit.

To ensure employment floor space is provided within the RJTC to address future needs, the SGS study outlined the non-residential FSR that can be provided in the Strategic Sites to ensure that

an overall viable redevelopment of these sites is possible. These non-residential FSR have been applied to the Strategic Sites as detailed in Section 4.9 of the draft Planning Proposal.

### ***Affordable housing analysis***

As indicated above, the SGS study tested the viability of requiring affordable housing in each of the test case scenarios and generally found that a range of affordable housing rates can be feasibly applied commensurate with the overall viability of the FSR uplift in each of the test sites. This critical finding has informed and supported the proposed affordable housing strategy contained in the draft Planning Proposal as detailed in the relevant section below.

It is proposed that affordable housing rates for the RJTC take a nuanced approach by applying different rates for different sites according to their respective feasibility levels. Accordingly, the affordable housing rates have been established in the Planning Proposal based on the following principles:

- An affordable housing rate will only apply to those properties where an increase in Floor Space Ratio (FSR) is proposed under the RJTC Planning Proposal. For highly valued heritage sites, no changes to the planning controls are proposed in the draft planning proposal.
- The levy will only apply to residential floorspace (not commercial/retail uses) – this will incentivise the development of commercial land uses and employment in the town centre that will not be subject to a levy
- A higher affordable housing levy is applied to all Strategic Sites (as tested by SGS for Sites 1, 2, 5a/5b and 8) recognising greater proposed uplift
- The remaining properties (being the fine grain infill sites) in the town centre will have affordable housing levies based on a sliding scale percentage levy tied to the amount of uplift in FSR for each property as detailed in section 4.3 of the draft planning proposal.

### • **Heritage assessment (City Plan Heritage)**

Expert heritage advice was provided to Council by City Plan Heritage, and this has informed the RJTC Strategy, and the preparation of an Urban Design Report for the town centre. City Plan Heritage was provided with the proposed building envelopes and height and density (FSR) scenarios based on 3D modelling (as informed by the feasibility analysis). City Plan Heritage has provided advice on development approaches that preserve the integrity of the heritage fabric of individual buildings and of the town centre as a heritage conservation area, whilst allowing a moderate level of redevelopment to occur. In some cases proposed building heights and FSRs have been modified in response to the heritage advice.

Extracts of the main findings and recommendations of the heritage assessment as these apply to the Strategic sites and some key infill sites are provided below (for more details, please refer to the Heritage Assessment by City Plan Heritage attached under separate cover):

- **Strategic Sites** – the proposed maximum heights proposed for the Strategic Sites are acceptable subject to the following basic built form principles:
  - Retain and strengthen the existing two-to-three storey predominant street wall height and then setback at the upper level behind the street wall parapet
  - Avoid bulky and continuous block development and retain the narrow subdivision pattern and rhythm of traditional shopfronts
  - Apply design excellence, innovation and creative architecture to new development guided by a comprehensive Heritage Assessment and Conservation Management Strategy or Plan that considers the heritage significance of nearby heritage items, contributory buildings and the Randwick Junction Heritage Conservation Area.



- In the case of the Randwick Club Strategic Site, the terraces located on Alison Road (heritage items I255 and I256 - circled in yellow) should not be developed to 12 metres, and the proposed 25m height for this strategic site should be in the form of a setback/podium with tower or two-tower configuration to reduce the impact on the streetscape when viewed from Alison Road or Belmore Road.
- In the case of the Randwick Plaza Strategic Site, the development should be setback at the upper levels (above the podium) from both High Street and Belmore Road, considering the impact on low-to-medium density development including heritage and contributing items. The proposed mid-rise tower development should be well setback (indicated in yellow) and align with the multi-storey structure (1970s brick and glass structure – indicated in red arrow) at 66 High Street. The property at 60 High Street has significant characteristics and detailing, including decorative front gables, front facing veranda with timber posts supported on painted brick knee walls, and timber windows with coloured glazing. Given the significant heritage features, the height and floor space ratio are not proposed to be changed and this building should be retained.
- **Infill Sites** – the proposed maximum building heights for the Infill Sites are acceptable subject to the following built form principles:

**Infill Site between the southern side of Alison Road and north side of Bell Lane (No.183-185 and 187 Alison Road)**

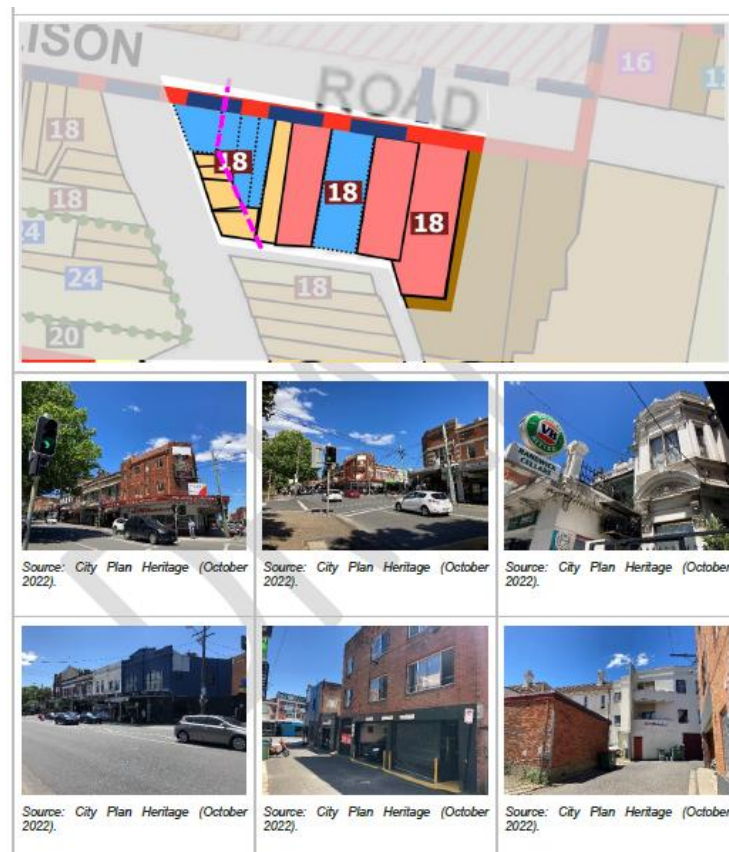


Figure 4 : No.183-185 and 187 Alison Road

- Removal of detracting additions on Alison Road and original Victorian Houses at 183-185 and 187 Alison Road to be assessed for Contributory Building Significance and restoration of the original two storey grand (Victorian) houses. The restored houses could accommodate residential foyer and café/restaurant uses with an apartment above.
- Additional height to be concentrated at the rear of the properties (towards Bell Lane) to compensate for the front setback and restoration of the Victorian houses. Provision of

pedestrian level sightline to confirm that the proposed taller rear building, would not be readily visible from the southern footpath of Alison Road.

- Provision of a street setback along Alison Road (commensurate with former front gardens) to create a Boulevard environment along Alison Road including outdoor dining opportunities overlooking Alison Park.
- No additional height to the corner heritage item at the eastern corner of Alison Road and Belmore Road being the proposed heritage items at 1 Belmore Road and 167-171 Alison Road).

#### Infill Site bounded by Belmore Road, Waratah Avenue, Arthur Lane and Silver Street

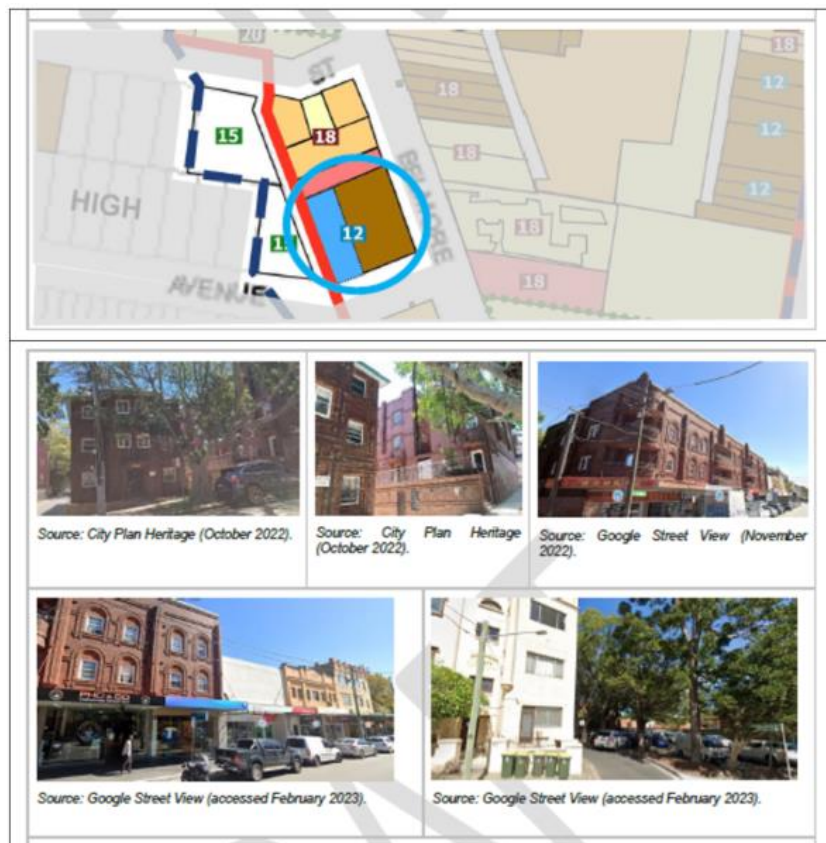


Figure 5: Infill Site bounded by Belmore Road, Waratah Avenue, Arthur Lane and Silver Street

- The heritage items located north of Waratah Avenue, at the corner of Belmore Road and Waratah Avenue should not be over developed as it only has the potential to have maximum one-storey behind the parapet. The heritage items have rich, Inter-War façade detailing that should be retained as a part of the development.
- The proposed 15m maximum height along Arthur Lane and Waratah Avenue is acceptable from heritage perspective as the allotments comprise contemporary development with no significance.
- The contributory and heritage items (with flat roofs or terraces) along west of Belmore Road and adjacent to Silver Street proposed for 18m maximum height is acceptable from a heritage perspective, however, any new development should be well setback (minimum 4m) from the existing building line.
- A detracting item is located west of Belmore Road (44-46 Belmore Rd), and immediately adjoining the northern boundaries of the existing heritage item at 48-60 Belmore Road and proposed heritage item at 25 Waratah Avenue. Any redevelopment of this should not have external facade material, finishes and tones that are incompatible with the existing heritage character of the streetscape (there is a general interwar/art deco heritage presentation in Belmore Road especially the adjoining interwar residential/commercial

heritage item at 4 8-60 Belmore Road). New development should have at least neutral characteristics and detailing and should not detract from the street presentation.

- The existing building alignment should be maintained, and the proposed new development should be well setback from the existing building line.
- The proposed development should avoid bulky and continuous block development to retain the existing subdivision pattern and rhythm of the traditional shopfronts.
- The 'Specific Policies and Recommendations' (Section 3.4) associated with the heritage items in this infill block sub area (if applicable) should be taken into consideration as a part of the proposed development.

### Triangular Infill Site containing the Captain Cook Statue and Star and Garter Inn



Figure 6: Triangular Infill Site containing the Captain Cook Statue and Star and Garter Inn

- No new development should be undertaken over the heritage item (especially with sloped roofing – pitched or gable), being 'The Star and Garter Inn' (item no. I302). Proposed new development for the remainder of the triangular block should be setback at the upper level (behind the parapet of the street wall) from the existing building line, preferably to follow the alignment of Belmore Road, Avoca Street and Short Street.
- Any new development should be well setback from the existing building line, preferably to follow the alignment of the tower width as well as Belmore Road and Avoca Street (indicated in dash blue line)
- Any new development should be well setback (minimum 4m) from the building front with existing parapets intact. The existing, original parapet detailing should be retained.

- Any new development above the existing retail, double-storey buildings should have similar shopfront patterns and detailing on their facades and should be complementary to the existing significant characteristics.
- Any new development should be progressively stepped-up in overall height from south to north; from the existing 12m (3 storeys) in the south to 15m (4 storeys) mid-block to 18m (5 storeys) in the north.
- Encourage reinstatement of original façade detailing such as balconies/windows, where applicable and remove later additions from the facades, including metal framed, rectangular windows. This will assist in enhancing the heritage significance within Randwick Junction.
- Avoid continuous block development to retain narrow subdivision pattern and rhythm of the traditional shopfronts and develop a signage strategy for Belmore Road and other significant streetscapes within the town centre.

Overall, City Plan Heritage made the following recommendations to ensure adequate protection and careful management of the RJTC's heritage values and these principles have been applied to the proposed building envelopes in the draft planning proposal:

- While maximum 4m podium setback along Belmore Road, Avoca Street and Alison Road should be retained for infill developments, podium heights should be based on the adjoining heritage item(s)' or contributory buildings' dominant parapet height to ensure the item(s)' dominance is maintained along the streetscape for continuation of the current people's experience at a human scale.
- Maintain a consistent setback alignment along most of the Randwick Junction Town Centre study area to protect its unique heritage streetscape.
- All tower developments should be guided by a comprehensive heritage assessment or a Conservation Management Strategy (now known as Heritage Asset Action Plans - HAAP) or Plan (CMS or CMP) in order to guide the management of established and assessed heritage significance of each item as well as the contributory buildings.
- Conservation should be the paramount consideration together with the heritage interpretation to become an integral part of the development ensuring the unique history, fine historic urban grain, narrow subdivision pattern, rhythm of traditional suburban shopping/commercial strip is maintained, respected and reflected in the future development.
- The aim of future developments should be to celebrate, enhance and integrate exposure of historic built heritage fabric, while at the same time focusing on the respective site(s) historical development.
- Where additional FSR is gained for a particular site through amalgamations and design excellence or other planning pathways, the preparation of a conservation management document becomes crucial in order to ensure the heritage aspects of the respective heritage item(s) and surrounding historic context is not detrimentally affected. Council should have strict rules on the preparation of such independent conservation studies and should endorse them preferably at the preliminary stages of planning proposals, feasibility studies and development applications.
- Design of the new developments should strive for design excellence, innovation and creativity and somehow relate to each other.
- Podiums should be designed in consideration to the narrow subdivision pattern and rhythm of the traditional shopfronts.
- Preserve the integrity of the heritage fabric of individual buildings and of the town centre as a conservation area, whilst allowing a moderate level of redevelopment to occur.

In summary, the expert heritage planning advice has guided the detailed planning of sites within the town centre where heritage considerations apply. A nuanced and creative urban design approach is required to complement, protect and enhance the cultural heritage of the town centre, including the identified significant built fabric, for future generations to enjoy. City Plan Heritage has provided advice and has reviewed various increased height and density (FSR) scenarios and development approaches. Creative planning controls that incentivise the restoration and adaptive



reuse of heritage fabric and other significant buildings within the town centre have been explored with City Plan Heritage in workshop sessions and these have been incorporated into the heritage provisions in the planning proposal.

- **Randwick Junction Town Centre Urban Design Report (Appendix 3)**

Based on the feasibility analysis and heritage assessment, an Urban Design study has been prepared inhouse. The study outlines a strategic planning and urban design approach for the town centre for the next 15-20 years.

Specifically, the Urban Design Report provides:

- Guidance for the preparation of the Planning Proposal, through built form analysis and recommendations on principal planning standards.
- The rationale for the design expectations and massing of future development which is essentially to respond to the valued heritage significance and 'fine grain' scale of the town centre and to respond to the changing context of new public transport infrastructure, new health infrastructure currently under construction, expected population and employment growth - in particular the hospital and university employment hubs.
- The basis for a future centre-specific Development Control Plan using extensive 3D modelling of the town centre was undertaken to test various scale and setback scenarios. The modelling assisted in visualising and establishing the optimum overall built form and public domain for the town centre.

The Urban Design study begins by identifying the key challenges currently facing the town centre as well as the opportunities that can be realised to strengthen the role of the town centre in the future. These challenges and opportunities are outlined below. This is followed by the broad structure plan and built form strategy underlying the Planning Proposal that seeks to address the challenges and maximise the opportunities in the town centre.

- ***Challenges***

**Lack of retail activity**

The Urban Design study identified that there is diminishing quantity and quality of commercial activity along the Belmore Road retail 'spine' particularly in the northern end. While the south part of Belmore Road benefits from the two large shopping centres, proximity to the Randwick Hospital employment hub and the Randwick stop of the Light Rail, the northern part of Belmore Road currently lacks a diversity of land uses and public spaces to draw activity and often has vacant shops or leases for low value retail uses.

**Run down appearance**

The study has identified that a significant section of commercial activity in the town centre is run-down in appearance including along the east side of Avoca Street, particularly north of Alison Road. Consequently, there is often only vacant shops or low value retail tenancies in these areas. Historically the Avoca Street city block has accommodated the Coach and Horses Hotel, a 'value for money' café/restaurant strip, dry cleaner, vehicular repair businesses and gymnasium.



*Figure 7: Avoca Street rundown appearance*

### Deterioration of heritage fabric

The urban design analysis has identified that many heritage listed and contributory buildings in RJTC are in a dilapidated state, have inappropriate paint colour schemes, infill windows of inappropriate design and detailing, and often retain disused signs or incorporate inappropriate new building signage.



Figure 8: Dilapidated shopfronts and heritage facades on Avoca Street

### Poor pedestrian experience and lack of quality public places

Many of the urban places within RJTC are poorly designed and unwelcoming for pedestrians to visit and to use. There is a lack of street tree planting, inappropriate street tree selection, excessive road space/carriageway widths (certain locations), and a lack of pedestrian prioritisation. Further, in many locations the footpaths are in poor condition, and the power supply is by overhead wires with timber poles and cross arms. The street furniture could provide a more coherent identity for the town centre and there is a lack of public artwork to enliven the pedestrian experience.



Figure 9: Poor interface between shopping centre and June Moore Place

### Poor Night time economy

The night time economy is poorly catered for in RJTC. The traditional after hours zone is in the northeast of the town centre, along Avoca Street, with the Coach and Horses Hotel the main hub of activity.



Figure 10: Dilapidated state of the traditional night-time zone

### Lack of spatial cohesion

The RJTC has developed along three primary street arteries – Belmore Road, Alison Road and Avoca Street. The main retail shopping street is Belmore Road that attracts the largest numbers of pedestrian traffic and activity. The Urban Design Study finds that the town centre's business activity tends to be divided into two parts, namely, the main cluster along the Belmore Road 'main street' spine, and a second cluster of businesses around the busy Alison Road and Avoca Street intersection. Currently the two larger parcels in the middle of the town centre - Royal Randwick Shopping Centre and the Marcellin College campus - present limited potential for east-west pedestrian connections and for the continuity of street level activity between the two parts of the centre.

### Fragmented subdivision pattern

Much of the town centre is characterised by a fine-grained subdivision pattern. Exceptions include the shopping centre properties and other consolidated land parcels, such as the Strategic Sites. The multiple ownership pattern may constrain and delay the potential for redevelopment.



Figure 11: Narrow allotments along Belmore Road

### • Opportunities

#### Renewal and restoration of heritage and contributory buildings

Whilst the conservation of heritage and contributory building fabric may limit some redevelopment opportunities, the benefits gained by retaining and restoring heritage buildings comes through the unique character they embody and contribution to the public domain and streetscape. As outlined in this Council report, the Urban Design study seeks to strengthen the heritage character and values of the town centre and adopt a fine grain approach to the growth and development of the town centre.



Figure 12: Heritage and contributory items in the RJTC

Further, there are opportunities to restore heritage and contributory buildings in the town centre and thereby progressively enhance quality and character of the streetscapes. A specific opportunity is the restoration of a row of two storey Victorian houses along Alison Road that form part of the original Brisbane Estate and the proposed listing of the new heritage item, 'Montrose', at 179-181 Alison Road. The houses remain hidden behind 1960s and 1970s commercial additions and modifications that detract from the Alison Road streetscape and the Randwick Junction Heritage Conservation Area (see Figure 13). The street setback (former front gardens), if



reinstated, could be an outdoor dining opportunity overlooking Alison Park. The restored houses could accommodate residential foyer and café/restaurant uses on both levels or incorporate an apartment above.



Figure 13: Victorian houses (orange) behind detracting facades create restoration opportunity to match existing houses (green)

### Mid-block pedestrian connections

The study identified opportunities for additional through site and mid-block links to enhance east-west connectivity and general overall permeability within the town centre. The larger Strategic Sites, such as the two shopping centres, provide opportunities for additional pedestrian links, as open air or as arcades/malls.



Figure 14: Opportunities for east-west through-site links

### Encourage health and innovative spaces along High Street

New height and density controls along High Street provide an opportunity to leverage the proximity to the Randwick Education and Health Precinct (Randwick Hospital and the UNSW) and the Randwick Light Rail stop. Ground Floor and podium level health, medical and innovative start-up businesses should be encouraged. Increased employment and health and innovation spaces and a focus on retail, local services, medical and community uses, contributes to the role of Randwick Junction Town Centre in supporting the growth and liveability of the overall Randwick Collaboration Area.

### Renewal and revitalisation of the public domain

The Planning Proposal provides an opportunity for the renewal of the public realm, and the upgrade of the network of places within the town centre. The current state of streetscapes and plazas in the town centre is often dilapidated and uninviting, lacking a clear program of use, resulting in them being underutilised. There is an opportunity to provide new shared/pedestrianised zones, widened footpaths, new/upgraded public places, (see Figures 15 and 16 below) street tree planting, landscaping, outdoor alfresco and dining areas, upgraded street furniture and public artwork.





Figure 15: Concept perspective of June Moore Place



Figure 16: Concept perspective of East House Corner

- Laneway activation**

There is an opportunity to re-envision Arthur Lane and Bell Lane as important pedestrian thoroughfares and places, destinations within RJTC. The Planning Proposal includes zoning and active frontage controls to facilitate the delivery of commercial and active uses at ground level. Laneway activation, and a second retail frontage, provides additional opportunities for commercial and retail use within the town centre. Further, this adds another type of space to the public domain of high quality and interest. New seating, creative lighting and planting will further facilitate pedestrian use and revitalise existing underutilised spaces in the town centre. Such matters should be considered as part of the review of the RDCP.



Figure 17: Concept perspective of Arthur Lane

- Night-time activities**

The night-time activities within RJTC are currently focused around the Coach and Horses Hotel and the adjoining restaurant strip. There is the opportunity to augment the night-time offering through the creative adaptation of existing buildings and associated public domain. The potential for adaptation of old buildings such as the former post office can be realised through planning

provisions to allow for utilisation of building setback, areas for outdoor seating and adjoining right-of-way thoroughfares for temporary street closures to host special events. Similarly, the activation of Arthur Lane and Bell Lane as important pedestrian thoroughfares and places, destinations within RJTC through the Planning Proposal can provide opportunities for night-time activities. There is the potential for workers, students, customers and visitors especially in the adjoining education and medical campuses to provide a critical mass of patrons for a future robust night-time food and beverage destination along activated laneways.



Figure 18: Concept perspective of Arthur Lane at night

- ***Built form strategy***

To address the challenges facing the town centre described above and to help realise its opportunities, the Urban Design report sets out a Built Form Strategy that utilises a building envelope approach to guide and articulate the air space above potential development sites where it is deemed suitable to build upon. The distribution of the proposed building envelopes will be structured holistically with consideration for future planning and growth parameters, heritage and flooding constraints, pedestrian links, individual site context, environmental constraints, the relationship with surrounding development and opportunities to enhance the public realm as captured in the Structure Plan in Figure 19.

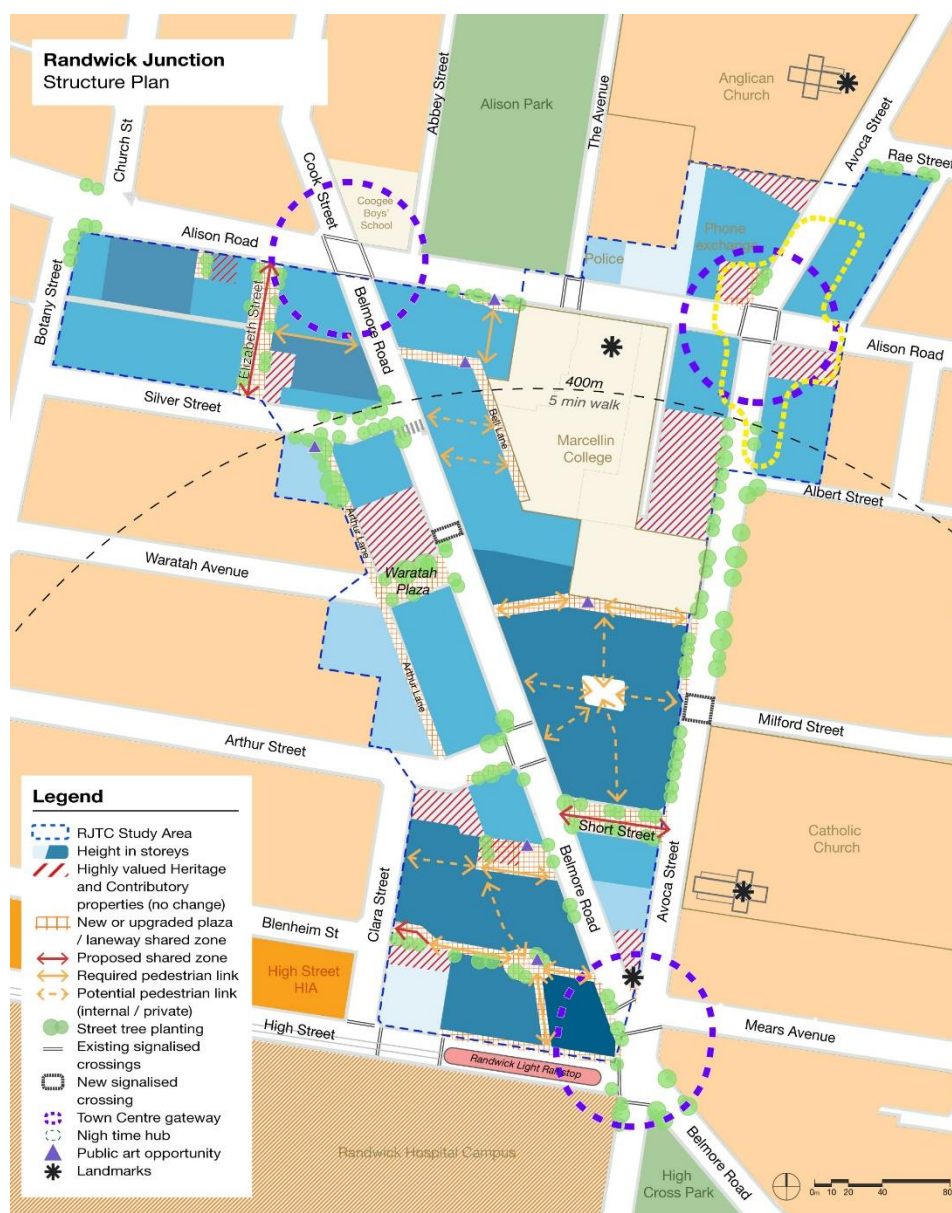


Figure 19: Randwick Junction Town Centre Structure Plan

The built form strategy is based on the proposed overall building height categories shown in the Height of Building (HOB) plan in Figure 23 below:

- High value Heritage Properties - no change to the current controls is proposed – these sites retain their current zoning, FSR and HOB – generally 12m maximum height and 2:1 FSR
- Heritage and Contributory Properties – a modest uplift in height is proposed for development sites that include these items. Any uplift, of up to two storeys above the existing height limit, is subject to a heritage assessment to determine the extent of significant building fabric to be retained – generally five storeys or 18m maximum height
- Strategic Sites – these sites are larger and less constrained by heritage considerations. A modest uplift in height is proposed to permit mid-rise residential buildings – generally 6 to 8 storeys or 21.5m to 28.5m
- Gateway Strategic Site – immediately adjoining the Randwick Light Rail station and marking the south gateway of the RJTC – the proposed mid-rise building would be 34.5m (equivalent in height to the recently completed Bright Alliance hospital building on the south side of High Street that is eight storeys in height). The 34.5m height limit would



allow a 10 storeys mixed use building or an 8 storey commercial/office building (due to the larger floor-to-floor height required).

Buildings generally increase in height as they get closer to the Randwick Light Rail station in High Street. The proposed eight-storey buildings in the south of the town centre match the height of the eight storey shop top development proposed in the High Street HIA situated to the west. The proposed eight storey residential development on the Royal Randwick Shopping Centre site matches the height of the existing eight storey Veriu Hotel and Apartments on Belmore Road, adjoining to the north of the shopping centre. Based on the above height categories, a future site specific DCP will further refine and develop specific block-by-block building envelope development control plans that incorporate detailed street, podium and upper-level setbacks.

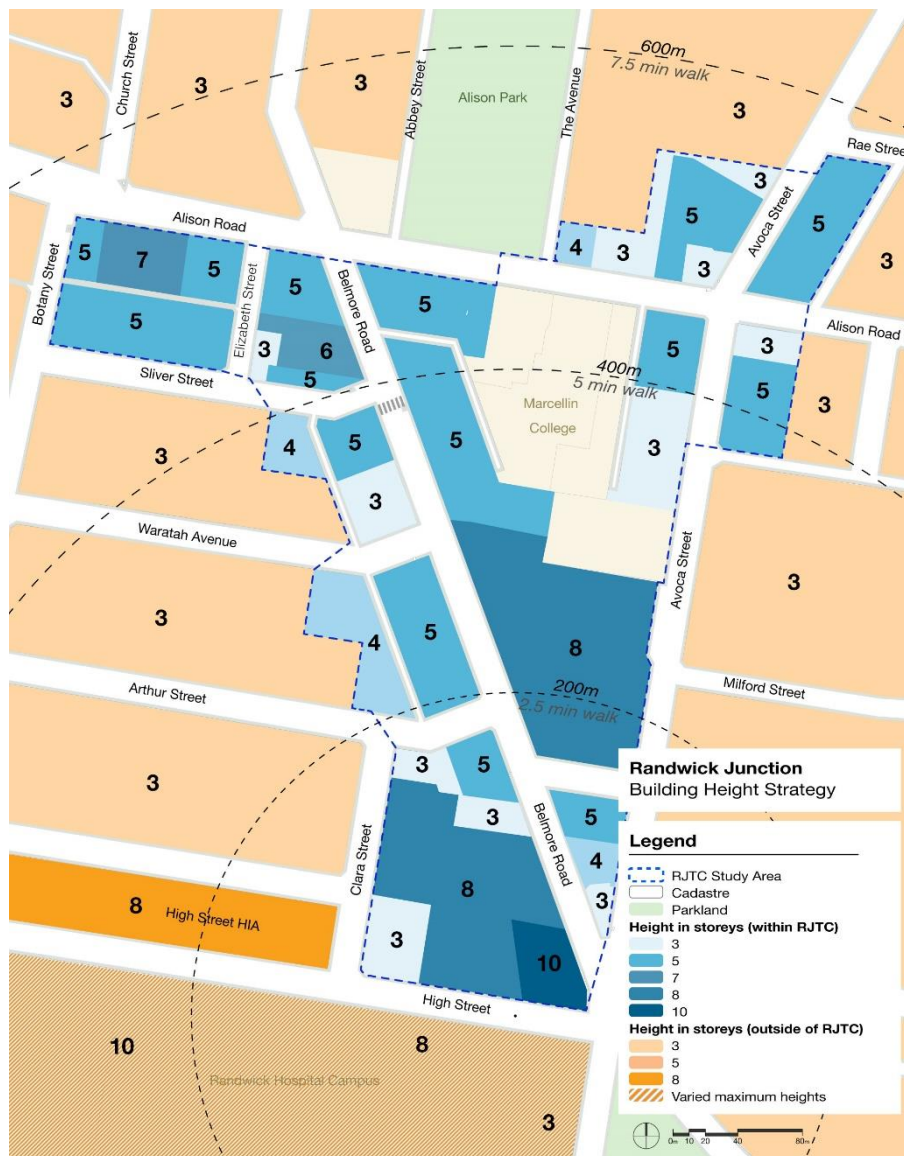


Figure 20: Randwick Junction Building Height Strategy

### Planning Process

A planning proposal is the first step to commence changes to the planning provisions relating to land. It is a formal application that sets out the objectives, intended outcomes, and justification for the proposed changes, and also details the community consultation to be undertaken.

The NSW Environmental Planning and Assessment Act 1979 (EP&A Act) and Regulations set out the process for amending the planning provisions (heritage) relating to land in NSW. Changes to the planning provisions can only be made via a formal amendment to the Randwick LEP.

### Gateway Determination

If Council resolves to proceed with the subject Planning Proposal, it will be forwarded to the Minister for Planning for a 'Gateway Determination'. The 'Gateway Determination' is essentially a checkpoint for planning proposals, and enables those proposals that are not well founded, or not in the public interest to be stopped early in the process, before significant resources are committed in carrying out technical studies or investigations.

The Minister's 'Gateway Determination' will stipulate whether the subject Planning Proposal should proceed, whether it needs to be resubmitted, the timeframe for its completion (usually nine months from the date of the Determination), the community consultation requirements and State/Commonwealth agency requirements and whether a public hearing is needed.

### Exhibition and Making of Amendments

Following the 'Gateway Determination', the Planning Proposal will be formally placed on public exhibition for comment. The final LEP and accompanying maps which amend the Council's principal planning instrument (i.e. the RLEP 2012) are made by the Minister for Planning (and notified on the NSW legislation web site) in accordance with the EP&A Act. Certain LEPs which are of local significance can be finalised by Council via delegation from the Minister (this is determined at the Gateway stage).

### Local Planning Framework

#### ***Randwick Local Environmental Plan 2012***

The Randwick Local Environmental Plan 2012 (RLEP 2012) is proposed to be amended by creating new provisions relating to zoning, heritage, height of buildings, floor space ratio, design excellence, affordable housing, and active street frontages.

The town centre is currently predominantly zoned R3 Medium Density Residential under RLEP 2012 with a maximum height limit of 12 metres and FSR of 2:1.

### The Planning Proposal

Informed by the feasibility, heritage and urban design studies outlined above, and supported by traffic and flooding analysis, a draft Planning Proposal has been prepared (**see Appendix 5** under separate cover). It sets out the actions and recommendations to achieve the vision for sustainable commercial and residential growth to support the adjoining medical and education precinct while respecting the heritage significance of the RJTC.

### Amendments to Randwick Local Environmental Plan 2012 (RLEP 2012)

The following amendments are proposed:

#### ***i. Zoning***

It is proposed to generally retain the existing RLEP 2012 B2 Local Centre zoning which will be translated into a E2 Commercial Centre zone under the NSW Employment Reforms. The E2 zone is deemed to be the most suitable under the reforms to reflect the strategic intent of RJTC and its future role in the Randwick Health and Education Strategic Centre.

Five sites have been identified in the planning proposal as providing a logical extension to the RJTC. The sites are identified in red outline in Figure 21 and are summarised in the following table:

Site	Current Zone	Proposed Zone	Proposed Height	Proposed FSR
Nos. 119, 121, 123, 125 and 127-129 Alison Road	R3 Medium Density Residential	E2 Commercial Centre	18m (119-121 Alison Road) 24.5m (123-129 Alison Road)	2.5:1  3:1

1-5 Botany Street & 1-9 Silver Street	R3 Medium Density Residential	No Change (1-5 Botany Street and 1-5 Silver Street)  E2 Commercial Centre (7 and 9 Silver Street)	18m	1-5 Botany Street and 1-5 Silver Street: 1.5:1  7-9 Silver Street: 2:1
144 Avoca Street	R3 Medium Density Residential	E2 Commercial Centre	18m	2:1
Nos. 42 – 44 Waratah Avenue, 63-69 Arthur Street & 9 Arthur Lane	R3 Medium Density Residential	E2 Commercial Centre	15m	42-44 Waratah Avenue:1.25:1  Remaining sites: 1.5:1
62 High Street	R3 Medium Density Residential	E2 Commercial Centre	27.5m	2.75:1

Table 1: Proposed Zone Boundary Extension Sites

It is evident from Table 1 that the boundary extension at 1-5 Botany Street and 1-9 Silver Street will involve an uplift in FSR and Height of Building. This is proposed to enable the redevelopment of these sites at a scale that acknowledges the interface role this area plays, being positioned between residential and commercial uses. In addition to FSR and height uplifts, it is proposed to rezone two parcels on the corner of Silver and Elizabeth Streets to E2 Zone to deliver non-residential uses at ground floor, encouraging increased commercial activity in the north western area of the centre. This rezoning also seeks to activate Elizabeth Street as a potential shared street. The remaining parcels along Silver Street are proposed to retain their R3 Medium Density Residential Zoning.

Based on heritage and urban design advice the following properties within the boundary of the study area are not proposed to be rezoned to E2 Commercial Centre (therefore will retain the R3 medium Density Residential zone):

- 66-68 Arthur St (proposed contributory)
- 17-19 Clara St (Heritage item)
- 56-58 and 60 High St (proposed contributory)
- 146-162 Avoca St
- 201-209 Avoca St
- 211-215 Avoca St

All the above properties are either heritage listed (in the Randwick LEP) or proposed to be included as contributory items. Following built form modelling and analysis, additional FSR is proposed for 66-68 Arthur St (refer to Figure 24 Floor Space Ratio Map).

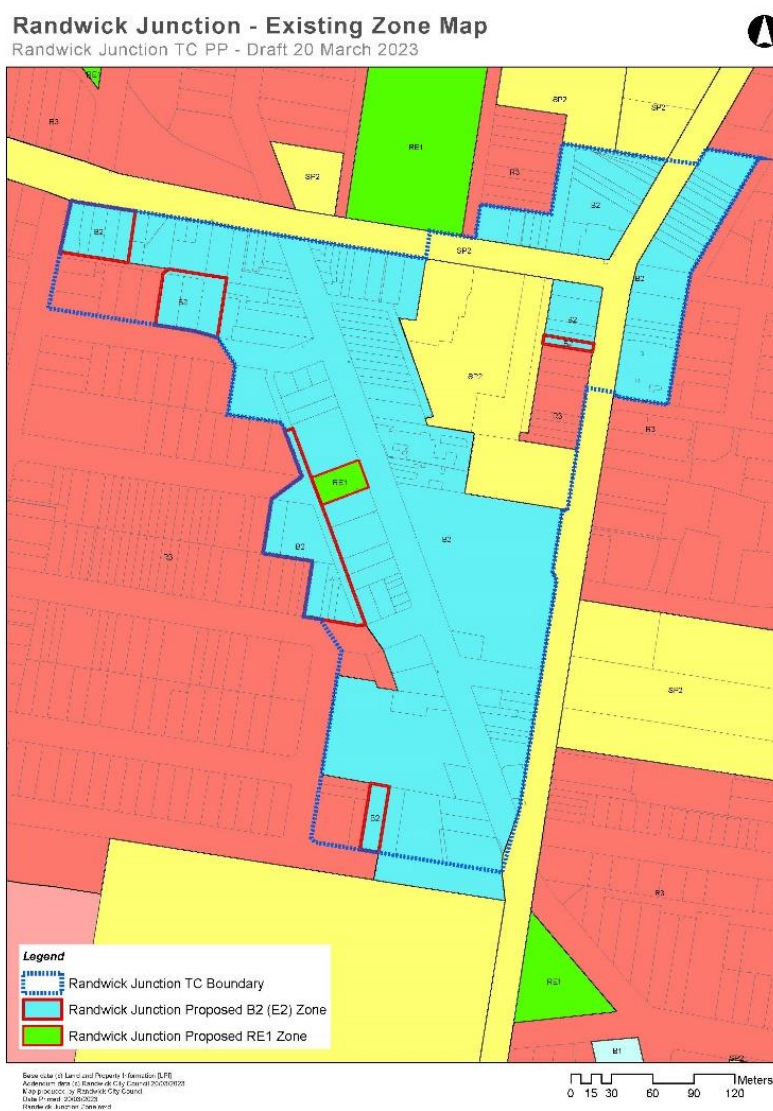


Figure 21: Proposed zone boundary sites

The sites to be rezoned are generally located on the edge of the town centre and rezoning of these sites would achieve a contiguous and consistent zoning by:

- Reflecting the existing pattern of retail/commercial uses
- Providing a defined edge to the business zoned land
- Strengthening RJTC by increasing opportunities for additional business uses/mixed uses to support future growth.

New built form controls for these sites to be incorporated in the draft DCP will provide a suitable height transition to surrounding residential areas.

### Proposed Public Open Space Zoning – Waratah Plaza

Council is currently undertaking preparation works to create a new urban plaza in the heart of RJTC on Waratah Avenue which is part of the road reserve owned by Randwick City. The plaza will become an important civic space with the closure of Waratah Avenue to vehicles between Belmore Road and Arthur Lane. It will comprise 800m<sup>2</sup> of landscaped space and provide improved pedestrian and cycle access to Belmore Road and opportunities for public art and activations.

While overall Randwick City has a high provision of open space, highly urbanised centres such as RJTC have a lower provision of open space and recreational infrastructure, higher densities, and limited land available to provide new parks to support new residents. As such, it is proposed to rezone Waratah Plaza from B2 to RE1 Public Recreation to formalise this civic space as public open space.

GR1/23

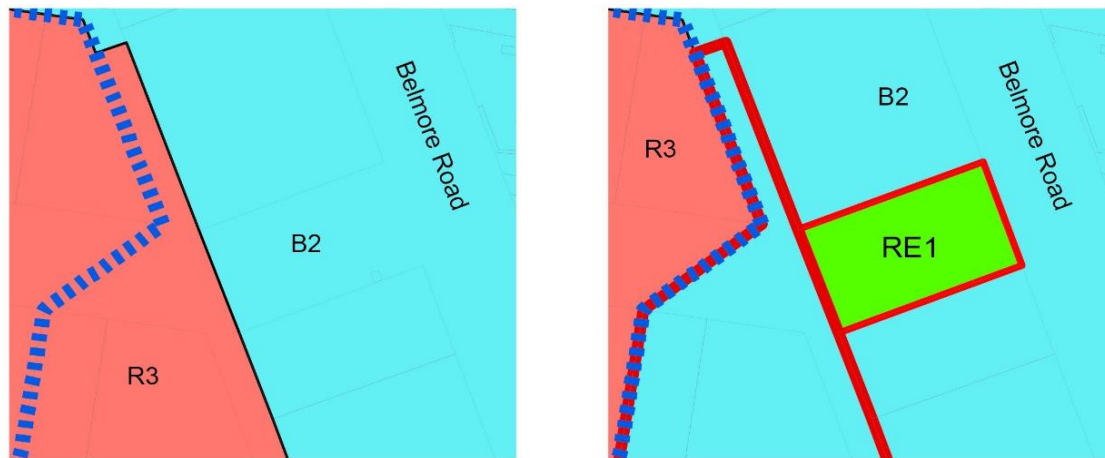


Figure 22: Existing and proposed RE1 Zone: Waratah Plaza

## **ii. Height**

The RJTC currently has a maximum height of 12m under the RLEP 2012, with the exception of Marcellin College.

The proposed changes to maximum building height have been based on results from independent feasibility studies; architectural heritage reviews; urban design analysis; extensive 3D modelling and key view analysis to ensure that increased building heights and built form massing is viable and appropriate for the heritage context of RJTC. It is proposed that the following new maximum height of buildings height strategy be adopted based on the Built Form Framework as follows:

### Highly valued heritage properties

No changes are proposed to the RLEP 2012 maximum height limit for sites that are listed on the State Heritage Register or locally listed heritage items that are of high sensitivity and/or that can be viewed from multiple streetscape perspectives and are therefore difficult to extend for alterations and additions (as distinct from properties with a single primary retail street façade). The following are designated highly valued heritage properties in the town centre:

- 143 and 145 Alison Road
- 11 Silver Street
- 1, 48-60, 128 and 141-143 Belmore Road
- 25 Waratah Avenue
- 17 and 19 Clara Street
- 110-116, 124, 146-162 and 147 Avoca Street

### Heritage and contributory buildings

It is proposed to make changes to the RLEP 2012 maximum height limit for certain heritage items and contributory buildings, to accommodate a moderate increase in height of up to two storeys above the existing height limit (equivalent to five storeys, 18m), subject to a heritage assessment as to the extent of the existing significant building fabric to be retained and the suitability of the proposed redevelopment regarding heritage considerations and design excellence. The proposed



changes to the RLEP 2012 maximum height for these sites would generate additional residential/commercial capacity and offer incentives for landowners to preserve the valued heritage character of the ageing buildings.

#### Infill sites

It is proposed that infill sites adopt a new RLEP 2012 maximum height limit of approximately 18m (equivalent to 5 storeys) along the main thoroughfares of Belmore Road, Alison Road and Avoca Street with upper-level building setbacks of 4m above the predominant street wall (parapet) height that varies from block to block of between two and three storeys.

#### Strategic Sites

As outlined earlier, the identified strategic sites have larger floor plates, and relatively limited constraints to redevelopment. Accordingly, this planning proposal identifies new maximum building heights of between 6 and 10 storeys, as the larger site areas enable taller built forms to be achieved without substantial offsite impacts. The larger site areas allow for setbacks and transitioning in height to public streets, while still meeting internal, building-to-building setback requirements of the Apartment Design Guidelines (ADG).

It is proposed that the RLEP 2012 maximum height provisions be amended for the key sites as follows:

- **The Randwick Club:** 7 storeys (approximately 24.5m) in the middle of the block, stepping down to 5 storeys (approximately 18m) to the east and west of the city block. A 3 storey (approximately 12m) maximum height is maintained for the two heritage items within The Randwick Club site.
- **Royal Randwick Shopping Centre:** 7 storeys (approximately 28.5m - assuming larger floor to ceiling heights for ground and first retail uses) with relevant setbacks on higher levels.
- **Randwick Plaza and Gateway:** 10 storeys (approximately 34m) in a limited area at the corner of High Street and Belmore Road stepping down to 7-8 storeys (approximately 28.5m - assuming larger floor to ceiling heights for ground and first retail uses) across the remainder of the block.
- **Former Commonwealth Bank Site:** Maximum 6 storeys (approximately 21.5m) with setbacks on both the east and west street frontages.

### Randwick Junction - Proposed Height of Building (HoB) Map

Randwick Junction TC PP - Draft 11 May 2023

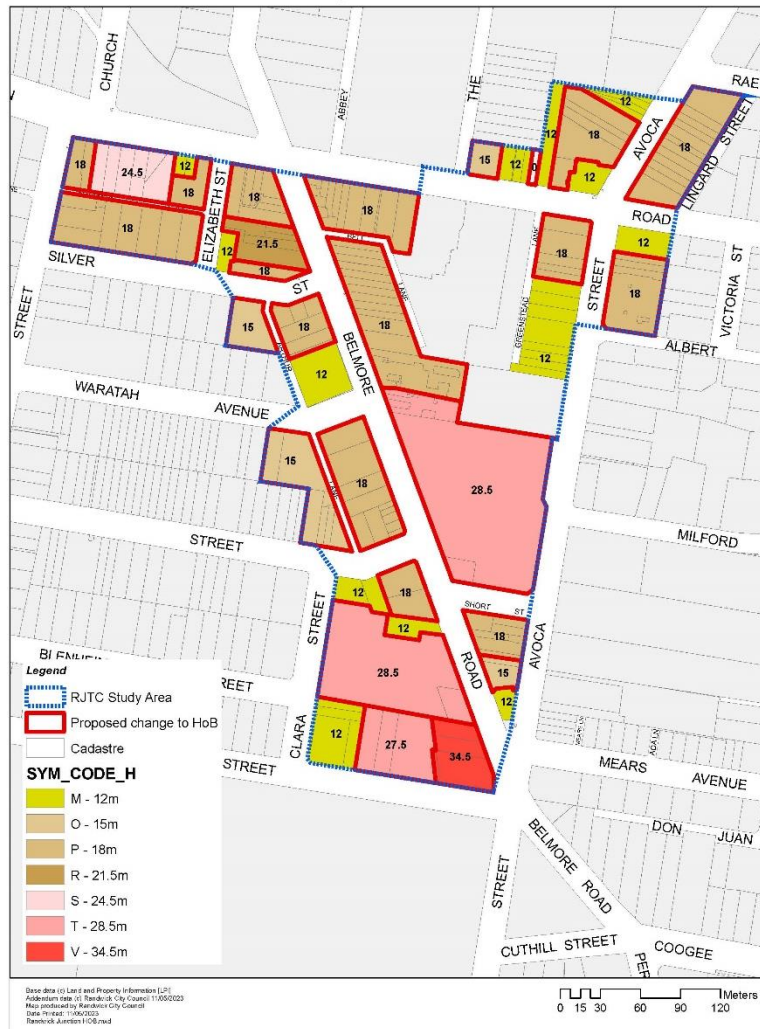


Figure 23: Proposed maximum height of buildings

### iii. Floor Space Ratio

The RJTC currently has a maximum Floor Space Ratio (FSR) of 2:1 for the B2 Local Centre zoned areas and 0.9:1 for boundary extension sites currently zoned R3 Medium Density Residential zone under the RLEP 2012.

It is proposed to amend the RLEP 2012 Floor Space Ratio Maps to include changes to FSR across the RJTC to provide capacity for new jobs and housing. The proposed changes to the FSR maps have been informed by development feasibility and viability testing and urban design modelling to account for setbacks, likely future amalgamation patterns and solar access.

The Randwick Junction Town Centre Urban Design Report investigated a range of appropriate FSR's that would work in conjunction with the proposed revised building heights and achieve a good urban design outcome. Extensive 3D modelling, key view analysis and expert independent architectural heritage reviews have been undertaken to ensure the proposed building massing is appropriate for the heritage context of RJTC.

The proposed FSRs are derived from the total floorplate area that was tested as part of the extensive 3D modelling process. The Gross Floor Area component of the FSRs was calculated using a 70% floorplate efficiency for all levels and uses. While higher efficiencies might be expected for commercial uses and in some residential uses, the more conservative 70% figure was utilised in the calculations for the following reasons:

- **Heritage Considerations:** As the majority of the town centre is within a Heritage Conservation Area and there are numerous heritage items and Contributory Buildings, the ability to achieve high floorplate efficiencies could potentially be limited by the need to retain and protect built form heritage
- **Site proportions:** Numerous sites within RJTC are of narrow or obtuse dimensions, limiting floorplate areas and potential design efficiencies
- **Further design controls:** While the 3D model does take into consideration building separation provisions under the NSW Apartment Design Guide and expert heritage input from City Plan Heritage consultants, the modelling only represents a preferred maximum built form mass for each site. The proposed FSRs for sites are maximums only, with final building envelopes determined through the application of additional DCP controls such as articulation, through site link requirements and landscape provisions which are likely to reduce the overall Gross Floor Area.

It is proposed that the new maximum Floor Space Ratios be adopted based on the Built Form Framework as follows:

Highly Valued Heritage Properties - No changes are proposed to the RLEP 2012 FSR for sites that are listed on the State Heritage Register or locally listed heritage items that are of high sensitivity and/or that can be viewed from multiple streetscape perspectives and are therefore difficult to extend for alterations and additions (as distinct from properties that have a primary retail street façade where additions could potentially be accommodated, setback behind the main street frontage). Generally, an FSR of 2:1 applies to these properties. Refer to Figure 3 – Planning Proposal Site Categories map for the location of the following designated highly valued heritage properties in the town centre:

- 143 and 145 Alison Road
- 11 Silver Street
- 1, 48-60, 128 and 141-143 Belmore Road
- 25 Waratah Avenue
- 17 and 19 Clara Street
- 110-116, 124, 146-162 and 147 Avoca Street

Heritage and Contributory Properties/Infill Sites – a modest uplift in density is proposed for development sites that include heritage items or contributory buildings and are not identified as highly valued heritage properties. Any uplift, above the existing FSR of 2:1, is subject to a heritage assessment to determine the extent of significant building fabric that is required to be retained – these sites are generally between FSR 2:1 to FSR 2.75:1.

Strategic Sites – these sites are larger and less constrained by heritage considerations, and this enables taller built form to be achieved without substantial offsite impacts. A modest uplift in density is proposed to permit mid-rise residential buildings – these sites are generally between FSR 2.75 and FSR 3.0:1, and are subject to higher proposed affordable housing contribution rates (see Table 2: Affordable Housing Contribution Rates) and to design excellence requirements.

Gateway Strategic Site – immediately adjoining the Randwick Light Rail station and marking the south gateway of the RJTC – the proposed mid-rise building would be between 8 and 10 storeys (depending on whether the redevelopment is a fully commercial building or mixed use – this site is proposed to have an FSR of 4:1, and is subject to the highest affordable housing contribution rate (see Table 2: Affordable Housing Contribution Rates) and to design excellence requirements.

Sites located to the west of Arthur Lane and along the north side of Silver Street (currently have an FSR of 0.9:1) and are proposed to have FSRs between 1.25:1 and 1.5:1. This increase in

density would enable the redevelopment of these sites, while acknowledging the interface role between residential and commercial land uses that these sites play.

The proposed FSRs are maximums and are intended to work with envelope provisions in the forthcoming RJTC section of Randwick DCP 2013. Further detail on the proposed FSRs is contained in Section 5.6.2 of the Urban Design Report. The following map (Figure 24) shows the proposed FSRs for the town centre.

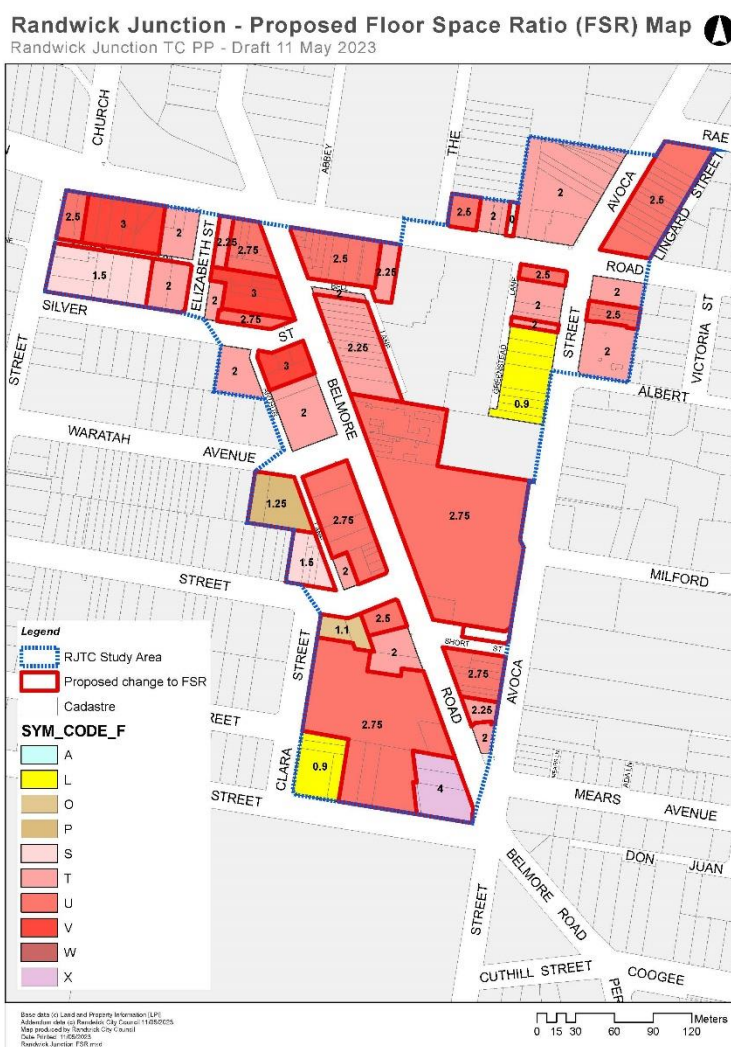


Figure 24: Proposed floor space ratio

### Non-Residential Floor Space Ratio

Based on Council's desktop analysis of the existing commercial floorspace within the RJTC, employment is projected to grow from 3,977 jobs to 4,430 jobs. The figure for projected employment growth is based on the scenario of the town centre being fully developed under the new planning proposal controls and for a typical site, assuming at least one level of commercial floorspace is provided and for Strategic Sites, between one and three levels of commercial floor space.

Retail floorspace analysis undertaken in 2021 suggests COVID 19 has reduced the demand for retail floorspace across the LGA. By 2031, it is expected that retail floorspace will return to balance (with a small deficiency of 565 sqm), which is significantly less than pre-covid projections which indicated a deficiency (gap) of 7,193 sqm of retail floorspace.

Reduced demand for retail floorspace is largely due to an increased uptake of online retailing that has increased in popularity during the pandemic. Therefore, at least in the short-medium term



there may be less demand for retail floorspace in the town centre, before it rebounds over the next 8-10 years, returning to pre-Covid levels of growth.

In addition to retail floorspace, SGS data indicates that demand for other commercial floor space and uses such as health, medical and support services is expected to continue to remain strong over the next decade as a result of the town centre's role in supporting the Randwick Health and Education Strategic Centre/ Collaboration Area.

A desk top analysis of RJTC's existing employment floor space has identified that the centre currently has a lower quantity of floor space than is required to service future health and education floor space requirements of the major institutions. Furthermore, under the current planning controls it is unlikely that additional employment floorspace can be generated to meet the supply deficit. To ensure a sufficient amount of employment floor space is provided for within RJTC to meet future needs, it is proposed to introduce a minimum non-residential FSR to the Strategic Sites identified in Figure 25.

The non-residential FSR has been informed by the Randwick Junction Economic and Feasibility Analysis (SGS, April 2023) and aligns with the recommended FSR therein. The non-residential FSR has generally been established based on a 70% floorplate efficiency, such that the non-residential floor space will be delivered over one, two or three floors depending on the particular location and urban role played by the particular development in the town centre.

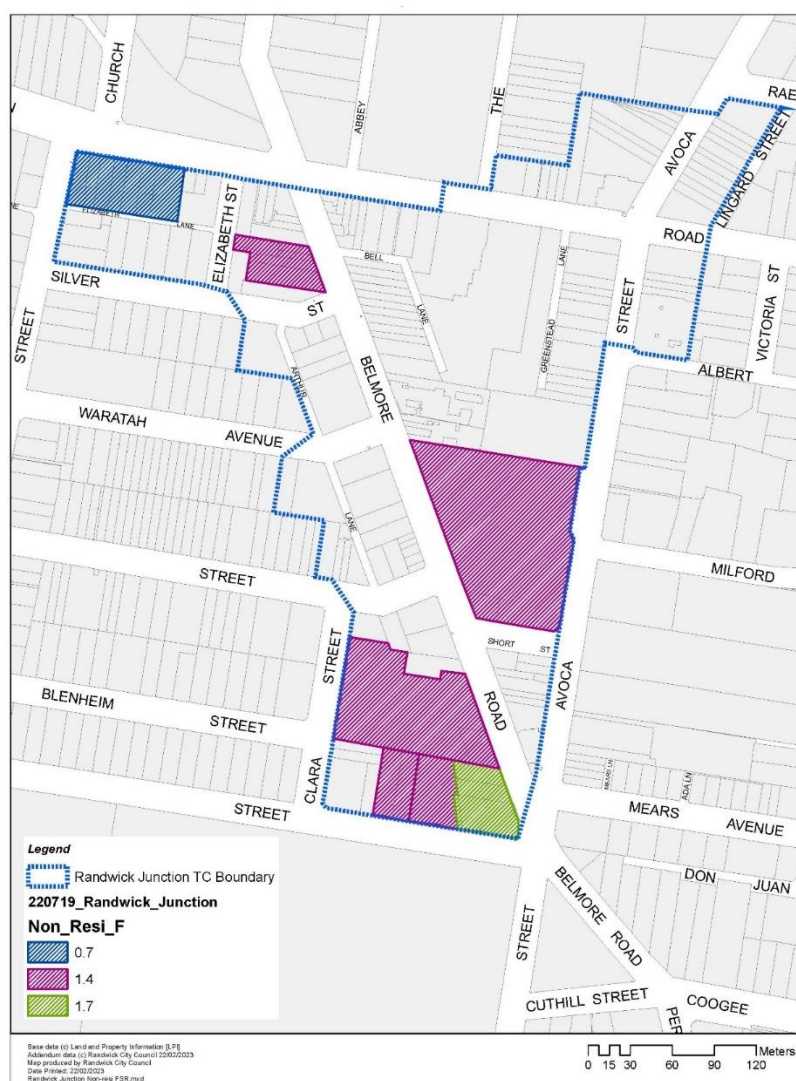


Figure 25: Proposed non-residential FSR.

#### ***iv. Design Excellence***

Strengthening design excellence provisions in Council's RLEP and RDCP and introducing new controls for future development will require best practice high quality architectural design within the town centre. This will contribute to an enriched experience for those using the town centre.

The consideration of 'design excellence' is currently a requirement under RLEP 2012 (clause 6.11) for proposals involving buildings over 15m in height, or for sites that are over 10,000m<sup>2</sup> in size or for land where a site-specific development control plan is required.

All new development will be expected to deliver a high standard of architectural design to contribute to an enriched experience of the RJTC. It is proposed to introduce a supplementary design excellence provision for the Royal Randwick and Randwick Plaza shopping centre Strategic Sites to require a design competition process be undertaken prior to DA lodgement, to ensure a performance benchmark in design innovation and sustainability is achieved for these important sites in the town centre. These sites require the resolution of multiple and complex design issues to ensure the desired public domain and public benefits are achieved.

The proposed provision would require Development Applications (DA) to be informed by an 'architectural competition process' undertaken by the proponent with independent expert input, prior to the lodgement of a formal DA.

A similar approach has been adopted for the Kensington and Kingsford Town Centres which has resulted in successful high caliber design outcomes. These Guidelines are proposed to be updated to have more general application to strategic sites within the town centre and will assist owners and proponents who are conducting competitions.

The proposed design excellence provision for an architectural design competition is not intended to apply to The Randwick Club and Former CBA strategic sites as these sites are smaller, less visually prominent, and less complex in their planning. Full details of the design excellence process can be found in the Architectural Competition Guidelines (prepared for the Kensington and Kingsford Town Centres). An example of a proposed design excellence clause is provided below:

## Design excellence at Randwick Junction Town Centre

- (1) The objective of this clause is to ensure that development exhibits design excellence that contributes to the cultural, heritage, visual and built character values of Randwick Junction Town Centre.
- (2) This clause applies to development involving the erection of a new building or **external alterations to an existing building on land identified as “X” or “Y” on the Randwick Junction Strategic Sites Map.**
- (3) Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.
- (4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—
- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
  - (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
  - (c) whether the development detrimentally impacts on view corridors and landmarks,
  - (d) how the development addresses the following matters—
    - (i) the suitability of the land for development,
    - (ii) existing and proposed uses and use mix,
    - (iii) streetscape constraints,
    - (iv) heritage considerations including the heritage significance of the site, and the relationship of the development to nearby heritage items, contributory buildings, and the broader Randwick Junction Heritage Conservation Area;
    - (v) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity, and urban form,
    - (vi) bulk, massing, and modulation of buildings,
    - (vii) street frontage heights,
    - (viii) environmental impacts such as sustainable design, overshadowing, wind, and reflectivity,
    - (ix) the achievement of the principles of ecologically sustainable development,
    - (x) pedestrian, cycle, vehicular and service access, and circulation requirements,
    - (xi) the impact on, and any proposed improvements to, the public domain,
    - (xii) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity and resource, energy, and water efficiency,
    - (xiii) visual and acoustic privacy and safety and security of the building.
- (5) Development consent must not be granted to the development to which this clause applies unless a competitive design process has been held in relation to the proposed development.

v.

***Heritage protection***

To protect the heritage character and fabric of buildings that reflect the historical development of the RJTC and the Randwick Junction heritage conservation area, a new heritage provision in the RLEP 2012 is proposed to apply to development proposals on all sites within the Centre. A new heritage provision is justified as it will provide statutory surety that:

- Development proposals on all sites align with the findings and recommendations of the Heritage Assessment prepared by a City Plan Heritage.

- Any development that seeks to build to the new envelopes proposed in the Planning Proposal do so to a standard that respects the heritage significance of heritage items located either on or adjoining heritage items;
- Development proposals on all sites demonstrate that they respect and conserve the heritage significance of Randwick Junction heritage conservation area including associated fabric, settings and views.

The new LEP heritage clause provision will not only be consistent with the existing heritage provisions in Clause 5.10 Heritage conservation of the Randwick LEP but will also strengthen heritage provisions that will be specific to the heritage needs and significance the RJTC.

Accordingly, the new LEP heritage clause will include the following provisions specific to Randwick Junction:

- Engage heritage conservation as a guiding and integral principle of change and a paramount consideration in new developments in the town centre
- Create opportunities for the restoration and renewal of historic buildings and heritage items
- Design heritage interpretation including interpretation of fabric relevant to Randwick Junctions history as a commercial and suburban area which in turn creates a positive impact on visual amenity
- Shape the continuation of the town centre's cultural identity that in turn becomes a key element in the consolidation of Randwick historical identity and improvements to the wider economic value of the town centre.
- Rectify intrusive physical changes to Randwick Junction's heritage fabric to improve the appreciation of its significance and the aesthetics of its streetscapes
- Create opportunity to celebrate the rich Aboriginal cultural heritage of the Gadigal Nation and to integrate this into the design of the public domain and public art.

When applied to the development application process, future development proposals will need to demonstrate that the following criteria are satisfied:

- The overall design and conservation enhances the heritage attributes of the item or contributory building
- Any proposed works will contribute to the character of the Heritage Conservation Area
- The proposal achieves improvements to the public domain and enhances the streetscape

In summary, the draft Planning Proposal will provide a new heritage provision in the RLEP 2012 to ensure that all development within the RJTC achieves a high standard of conservation appropriate to the centre's history and cultural heritage both European and Aboriginal. This will guide opportunities for restoration, rectification and renewal of the unique heritage fabric of the RJTC.

#### ***vi. Affordable housing infrastructure in the RJTC***

The draft planning proposal seeks to include an affordable housing provision in the RLEP 2012 for RJTC. The intended provision is pursuant to section 7.32 (1) of the EP&A Act, which allows a consent authority to impose an affordable housing contribution where a SEPP identifies there is a need for affordable housing.

The proposed affordable housing levy applicable for the properties in the RJTC is based on the advice provided in the Randwick Junction Economic and Feasibility Analysis (SGS Economics and Planning, Final Report, April 2023). The affordable housing levy that has been applied is not based on a standard percentage applied across RJTC. Rather, the affordable housing rates that



are proposed are applied dependent on the amount of uplift that has been afforded to the individual sites within RJTC.

The planning proposal seeks to include a new map to identify the sites by which the affordable housing contribution would apply. The intent of the draft provision is that development for residential purposes on identified sites identified within the Randwick Junction Affordable Housing Contributions Area must contribute towards affordable housing. The proposed affordable housing rates are guided by the feasibility analysis undertaken by SGS in terms of the building envelopes proposed for these sites. The affordable housing rates are shown in Figure 26.



Figure 26: Randwick Junction Affordable Housing Contributions Area

The affordable housing levy is to be introduced at the applicable rates for relevant sites for DAs lodged, from the date of commencement of the LEP amendments. The contribution rate is to apply to the total floor area intended to be used for residential purposes in all DAs on identified sites within RJTC, including adaptive reuse of existing floorspace and new floorspace.

To assist in determining total floor area that will be subject to the levy, it is intended that a definition be included in the clause and in the Affordable Housing Plan. An example of defining total floor area is provided below which has been taken from the *Sydney Local Environmental Plan 2012* Clause 7.13:

*‘to mean the total of the areas of each floor of a building within the outer face of the external enclosing walls and including balconies, but excluding the following:*

- (a) columns, fins, sun control devices, awnings and other elements, projections or works outside the general lines of the outer face of the external walls,*
- (b) any area of a balcony that is more than the minimum area required by the consent authority in respect of the balcony,*

- (c) *the maximum ancillary car parking permitted by the consent authority and any associated internal vehicular and pedestrian access to that car parking,*  
 (d) *space for the loading and unloading of goods.'*

The types of development to be excluded from a contribution for affordable housing would be listed in the clause and include: development for the purposes of public housing, affordable housing, community facilities and development for the purposes of residential accommodation that will result in the creation of a residential total floor area of less than 100 square metres.

In relation to the contribution for affordable housing, Council's preferred approach is by way of an in-kind dedication of completed units with any remainder being paid as a monetary contribution to the Council as per rates shown in Table 2: Affordable housing percentage equivalent monetary contribution:

Area	Affordable housing rate	Equivalent monetary value per m2 of residential floor space
Area 1	2%	\$ 265.00
Area 2	3%	\$ 397.50
Area 3	4%	\$ 530.00
Area 4	7%	\$ 927.50
Area 5	9%	\$ 1,192.50

Table 2. Affordable housing percentage equivalent monetary contribution rate

The rates shown in Table 2 are for the September Quarter 2022 median strata sale (as published in the latest Rent and Sales Report No. 141). Council will index the contribution rate twice a year (being first days of January and July) using the median strata sale price in the Randwick City LGA as published in the most recent Rent and Sales Report.

The proposed affordable housing levy will deliver approximately 31 affordable housing units (Council Officer estimate) over the next 20 years within RJTC, allowing low-middle income key workers to live in the area close to the hospital and education institutions which are major employment hubs.

### **vii. Active Frontages**

To ensure future employment needs can be accommodated within RJTC, and to promote vibrancy and safety, it is important to ensure the town centre has active building frontages on the ground Floor level along its streets. The active frontage control will protect existing Ground Floor commercial uses and ensure that the town centre has active street frontages that will facilitate greater vibrancy and safety within the town centre's streets, laneways, and plazas. The proposed minimum non-residential FSR applicable to Strategic Sites will assist in accommodating additional non-residential floor space within the town centre.

An LEP active frontage provision is proposed for all sites within RJTC. This requirement is to be applied as per the proposed Active Street Frontages map (Figure 27) and would require that the ground floor of streets, laneways and plazas in the town centre accommodate retail or commercial floor space, while ensuring there is active visual engagement between the public domain and the ground floor of the building to facilitate vibrancy and passive surveillance.

A DCP control will supplement the proposed LEP active street frontage provision, to encourage developments to provide active frontages to mid-block links, secondary streets, and laneways where active frontages are preferred.

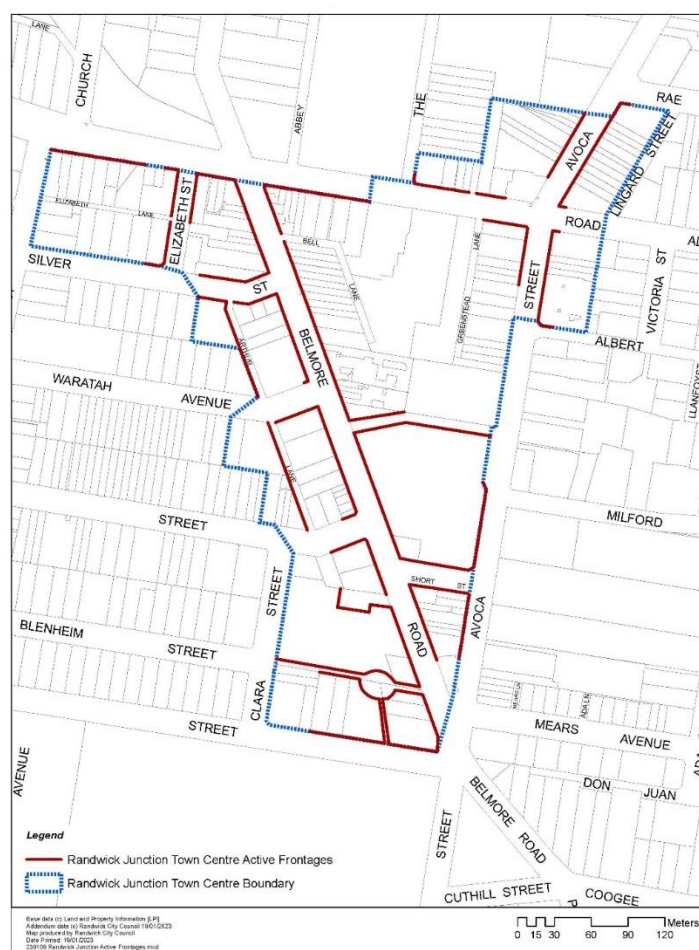


Figure 27: Proposed RJTC Active Frontages

### Randwick Development Control 2013 (RDCP)

A new DCP to be prepared for the RJTC will provide guidance on the implementation of the planning proposal. The draft DCP will be provided to Councilors in a subsequent report, following the outcome of RLPP meeting and is intended to be placed on public exhibition with the planning proposal. In summary, the following provisions are to be included in the site specific DCP for RJTC which will become a new section in the Randwick DCP 2013:

- Existing and desired character
- Affordable Housing
- Built Form and building envelopes
- Design excellence
- Street walls
- Building setbacks
- Building depth and bulk
- Building exteriors
- Heritage and contributory buildings
- Awnings
- Public domain and access
- Active street frontages
- Site specific controls as required
- Parking.

Environmental initiatives to be included in the DCP, will result in a range of benefits, including:

- Reduced greenhouse gas emissions
- Reduced pollution arising from car usage and congestion
- Improved town centre aesthetics and pedestrian experience
- Health benefits from active transport
- Improved localised flooding impacts and reduced mains water use

The draft RJTC Planning Proposal supports a new planning framework for the town centre to guide growth and change over the next 15-20 years. This new planning framework will be implemented via proposed amendments to the Randwick LEP 2012 and supported by new DCP provisions which will allow for a higher intensity of development at appropriate locations and scale whilst also providing for community benefits including providing for the delivery of affordable housing dwellings for essential key workers.

It aims for best practice architectural, heritage and environmentally sustainable design. It also includes principles of travel demand management, reducing the reliance on private vehicles and providing for enhanced public transport, pedestrian and cycle networks and car share, to facilitate sustainable access to/from the town centre.

### Strategic alignment

The relationship with the City Plan is as follows:

Outcome/Direction	Delivery Program actions
Outcome	4. Excellence in urban design and development.
Direction	4b. New and existing development is managed by a robust framework.

Outcome/Direction	Delivery Program actions
Outcome	6. A liveable city.
Direction	6d. A strategic land use framework provides for our lifestyle changes and for a continuing, yet steady rate of growth across our City.

Outcome/Direction	Delivery Program actions
Outcome	7. Heritage that is protected and celebrated.
Direction	7a. Our heritage is recognised, protected and celebrated.

### Resourcing strategy implications

The costs associated with the development of this work is in accordance with the 2019/2020 and 2022/2023 budget allocations.

### Policy and legislative requirements

Preparation of the Planning Strategy and Planning Proposal for RJTC has been informed by the strategies and plans prepared under the Environmental Planning and Assessment Act 1979, Act, including the Greater Sydney Commission's Greater Sydney Region Plan (A Metropolis of Three Cities), the Eastern City District Plan and the Randwick Local Strategic Planning Statement.

Additionally, the planning proposal has been prepared in response to Council's endorsed Local Strategic Planning Statement (LSPS) – Vision 2040. The LSPS is the consolidated strategic vision for Randwick City to guide growth underpinned by clear planning priorities about where housing, jobs, infrastructure and open space should be located. The planning proposal is consistent with the following LSPS planning priorities:

LSPS Priorities	Comment
Planning Priority 1: Provide diverse housing options close to transport, services and facilities	<p>The planning proposal is consistent with this priority as follows:</p> <ul style="list-style-type: none"> <li>• Proposed changes to built form controls would result in 400 dwellings</li> </ul>



LSPS Priorities	Comment
	<p>concentrated near the Sydney CBD to Southeast Light Rail, frequent bus services and hospital and education institutions</p> <ul style="list-style-type: none"> <li>The proposed affordable housing contribution would increase the amount of affordable housing options within RJTC to cater towards the housing needs of key workers and low income households.</li> </ul>
Planning Priority 2: Increase the amount of affordable housing stock to retain and strengthen our community	<p>The proposed affordable housing levy will deliver approximately 31 affordable housing units (Council Officer estimate) over the next 20 years within RJTC, allowing low income workers, key works and students to remain in the area close to the hospital and education institutions which are major employment hubs. An increase in the supply of affordable housing would help meet the needs of the growing number of smaller households living in Randwick, promote social integration, cohesion and diversity and allow people to stay within the community that they know as they move through different life stages.</p>
Planning Priority 3: Encourage development that responds to the local character and desired future character of our neighbourhoods	<p>The proposed built form controls have been carefully developed taking into account the unique heritage character of RJTC, and incorporate appropriate setbacks and building separation to maintain the integrity and setting of heritage buildings and contributory buildings.</p>
Planning Priority 4: Conserve and protect our unique built cultural heritage	<p>The additional heritage redevelopment controls would require landowners of heritage listed sites to conserve and restore the historic fabric of these buildings. A Development Application would only be granted where:</p> <ul style="list-style-type: none"> <li>It can be demonstrated that a high standard of conservation appropriate to the significance of the site will be achieved</li> <li>The overall design and conservation enhances the heritage attributes of the item or contributory building</li> <li>Any proposed works will contribute to the character of the Heritage Conservation Area</li> <li>The proposal achieves improvements to the public domain and enhances the streetscape.</li> </ul>
Planning Priority 7: Provide greater access and opportunities for walking and cycling	<p>Increasing densities close to public transport and major employment hubs encourages sustainable transport modes including walking and cycling. In addition, the Local Transport</p>

LSPS Priorities	Comment
<p>Planning Priority 8. Plan for strong connections for a 30 minute city</p> <p>Planning Priority 9: Focus economic development, innovation and job creation in our strategic centres</p>	<p>Study (LTS) recommends the following measures for RJTC which will be undertaken alongside the planning proposal process:</p> <ul style="list-style-type: none"> <li>• Co-ordinate with Transport for NSW to regularly monitor traffic performance and investigate improvements at the Alison Road/Avoca Street intersection</li> <li>• Prepare a traffic circulation plan for RJTC seeking to distribute traffic more <b>effectively according to each road's capacity, as well as Council's other non-traffic related objectives</b> for particular streets</li> <li>• Develop a comprehensive public parking management plan for RJTC, setting the <b>'trigger' conditions aligned with the 'graduated parking management approach'</b></li> <li>• Co-ordinate with Transport for NSW in the investigation of a high-quality transport interchange – a holistic solution accounting for all users (light rail terminus, 2 x rapid bus stop pairs, cycleways, vehicle traffic, etc.)</li> <li>• Ensure that new high-density developments incorporate laneways and shared zones where possible to prioritise movement by people on foot</li> <li>• Upgrade zebra crossing at Belmore Road/Silver Street to a raised crossing</li> <li>• Investigate the feasibility of a signalised crossing at Avoca Street (either at or north of Milford Street), to enable new turning movements into the Royal Randwick Shopping Centre car park and to improve traffic circulation in RJTC</li> <li>• Conduct walking and intersection crossing counts at key locations on Belmore Road, in order to obtain baseline pedestrian data to inform potential future project delivery (e.g. road space reallocation)</li> <li>• Commence cycleway concept design process for Principal Bicycle Network routes, due to their high complexity and interaction with other road users</li> <li>• Amend DCP to apply new parking rates to the RJTC and HIAs, at one third reduced rates on the TfNSW standard parking rates.</li> </ul> <p>The planning proposal is consistent with this priority as concentrating growth around public transport will support the 30 minute city.</p> <p>The planning proposal would encourage economic development and job creation within the Randwick Health and Education Strategic Centre by:</p> <ul style="list-style-type: none"> <li>• Increasing the quantity of employment floor space that could be used for a variety</li> </ul>

LSPS Priorities	Comment
<p>Planning Priority 10: Support the long-term economic viability of our town and neighbourhood centres</p> <p>Planning Priority 18: Reduce the consumption of energy and water</p> <p>Planning Priority 19: Manage our waste efficiently</p>	<p>of commercial uses including allied health and research</p> <ul style="list-style-type: none"> <li>• Providing for affordable housing to encourage key workers, low income households and students to remain in the area</li> <li>• Protecting non residential uses through the application of an active street frontages clause</li> <li>• Contributing towards urban renewal of larger strategic sites to attract businesses and jobs</li> <li>• Overall revitalisation of the town centre through public realm improvements, laneway activations and civic spaces.</li> </ul> <p>The planning proposal would support the economic viability of RJTC by:</p> <ul style="list-style-type: none"> <li>• Introducing new built form controls to support revitalisation and urban renewal</li> <li>• Providing for additional affordable housing and employment floor space to meet the needs of existing and new residents and workers</li> <li>• Encouraging a mix of businesses by retaining the B2 Local Centre zone (E2 under the employment reforms) and extending the zoning to include additional boundary sites.</li> </ul> <p>The planning proposal is consistent with these priorities as higher sustainability benchmarks (including for energy, water and waste management) would be a requirement of the architectural design process.</p>

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## S9.1 Ministerial Directions

The Planning Proposal is consistent with the following Ministerial Directions (as detailed further in the table below):

- Implementation of Regional Plans – Direction 1.10
- Heritage Conservation – Direction 3.1
- Flooding – Direction 4.1
- Integrating Land Use and Transport – Direction 5.1
- Residential Zones – Direction 6.1
- Business and Industrial Uses – Direction 7.1

No	Direction	Comment
Focus area 1: Planning Systems		
1.1	Implementation of Regional Plans	Consistent. This planning proposal implements key priorities of the

No	Direction	Comment
		Sydney Metropolitan Plan which is the Regional Plan covering RJTC. The planning proposal is consistent with this plan by supporting the 30 minute city, integrating land use and transport, providing for additional affordable housing, and supporting jobs and economic growth within the Randwick Junction Strategic Centre.
1.2	Development of Aboriginal Land Council Land	Not applicable
1.3	Approval and Referral Requirements	Not applicable
1.4	Site Specific Provisions	<p>Justifiably inconsistent. The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. The intent of the direction is to allow a certain land use or uses that are currently permissible within a given land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>In relation to the above, it is noted that this planning proposal proposes a non-residential FSR for the strategic sites to facilitate employment generating uses which is currently not mandated by the RLEP 2012. In addition, the planning proposal applies an architectural design competition provision to two strategic sites to deliver landmark buildings that offer public benefits.</p> <p>The proposed site-specific provisions would ensure long term protection and delivery of commercial floor space in order to <b>meet Council's employment targets</b> for RJTC. In the absence of the clause, Council is unable to mandate the requirements to deliver non-residential floor space as part of redevelopment of the town centre,</p>



No	Direction	Comment
		<p>which may result in a loss of employment generating uses and the employment targets not being met. In consideration of the above justification, the minor inconsistency is considered justifiable as the intent of the restrictive control is to ensure that the intended outcomes sought in this planning proposal are able to be delivered within RJTC.</p> <p>In relation to the proposed architectural design competition requirements, the provision will only apply to the two strategic sites identified and is considered reasonable and appropriate given the landmark locations and need for each of the sites to accommodate public benefits and a high level of design excellence.</p>
Focus area 1: Planning Systems – Place Based		
1.5	Parramatta Road Corridor Urban Transformation Strategy	Not applicable
1.6	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
1.7	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.8	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable
1.10	Implementation of the Western Sydney Aerotropolis Plan	Not applicable
1.11	Implementation of Bayside West Precincts 2036 Plan	Not applicable
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable

No	Direction	Comment
1.14	Implementation of Greater Macarthur 2040	Not applicable
1.15	Implementation of the Pyrmont Peninsula Place Strategy	Not applicable
1.16	North West Rail Link Corridor Strategy	Not applicable
1.17	Implementation of the Bays West Place Strategy	Not applicable
1.18	Implementation of the Macquarie Park Innovation Precinct	Not applicable
1.19	Implementation of the Westmead Place Strategy	Not applicable
1.20	Implementation of Camellia-Rosehill Place Strategy	Not applicable
1.21	Implementation of the South West Growth Area Structure Plan	Not applicable
1.22	Implementation of the Cherrybrook Station Place Strategy	Not applicable
Focus area 2: Design and Place		
Focus area 3: Biodiversity and Conservation		
3.1	Conservation Zones	Not applicable
3.2	Heritage Conservation	<p>Consistent. This planning proposal supports the conservation of heritage within RJTC in the following ways:</p> <ul style="list-style-type: none"> <li>• All proposed built form controls have been underpinned by a comprehensive heritage peer review, to ensure that any changes to height and FSR are sympathetic to the heritage significance of the HCA and would deliver sensitive development outcomes</li> <li>• Proposed additional heritage requirements would require the retention and restoration of historic fabric as part of the development process</li> <li>• The planning proposal process has resulted in the identification of 12 proposed contributory buildings (City Plan Heritage 2023) in RJTC, which will be</li> </ul>

No	Direction	Comment
		<p>included in the DCP for suitable protection</p> <ul style="list-style-type: none"> <li>This planning proposal aims to encourage design excellence and facilitate high-quality built form outcomes in the town centre which are sympathetic to its heritage significance.</li> </ul>
3.3	Sydney Drinking Water Catchments	Not applicable
3.4	Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable
3.5	Recreation Vehicle Areas	Not applicable
3.6	Strategic Conservation Planning	Not applicable
3.7	Public Bushland	Not applicable
3.8	Willandra Lakes Region	Not applicable
3.9	Sydney Harbour Foreshores and Waterways Area	Not applicable
3.10	Water Catchment Protection	Not applicable
Focus area 4: Resilience and Hazards		
4.1	Flooding	Yes. Preliminary flooding analysis has been undertaken. A detailed flooding constraints analysis will be commissioned for the town centre to inform the preparation of site-specific block-by-block development controls to be included in the RJTC section of the Randwick DCP.
4.2	Coastal Management	Not applicable
4.3	Planning for Bushfire Protection	Not applicable
4.4	Remediation of Contaminated Land	Not applicable
4.5	Acid Sulfate Soils	Not applicable
4.6	Mine Subsidence and Unstable Land	Not applicable
Focus area 5: Transport and Infrastructure		
5.1	Integrating Land Use and Transport	Yes. The planning proposal supports integration of land use and transport

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No	Direction	Comment
		<p>by increasing residential and employment floor space capacity within RJTC adjacent to and in walkable proximity to the Sydney CBD to South-East Light Rail, frequent bus service networks and major institutions.</p> <p>Clustering employment and housing in an area which has enhanced access to transport infrastructure reduces dependence on cars and supports the efficient and viable operation of public transport services.</p> <p>This planning proposal will maximise enhancements to existing and future walking and cycling infrastructure within the town centre by concentrating future jobs and dwelling growth where such infrastructure is intended to be delivered in the future. These opportunities will be investigated further as this planning proposal progresses and will be supported by comprehensive DCP controls, including a reduction in on-site parking rates within RJTC.</p>
5.2	Reserving Land for Public Purposes	Not applicable.
5.3	Development Near Regulated Airports and Defence Airfields	Not applicable.
5.4	Shooting Ranges	Not applicable.
Focus area 6: Housing		
6.1	Residential Zones	<p>Yes. This planning proposal facilitates increases in residential density and housing diversity throughout RJTC, which will assist in meeting dwelling targets established in the Eastern City District Plan and Randwick Housing Strategy. The proposed rezoning amendments are generally consistent with this Local Planning Direction as it will enable delivery of diverse and affordable housing that makes efficient use of existing infrastructure.</p>



No	Direction	Comment
		This planning proposal will enable an overall uplift of residential density, providing capacity for 400 additional dwellings through increases in <b>height and FSR as well as the 'up zoning' of zone boundary sites</b> for inclusion in the RJTC. These sites are appropriate for increased residential densities as they are within walking distance of the light rail and bus services, shops and services within RJTC and provide a logical extension to the town centre.
6.2	Caravan Parks and Manufactured Home Estates	Not applicable.

#### Focus area 7: Industry and Employment

7.1	Business and Industrial Uses	<p>Consistent. This planning proposal is consistent with the objectives of this Local Planning Direction as it will:</p> <ul style="list-style-type: none"> <li>• Retain the business zoning of RJTC</li> <li>• Slightly expand the town centre through zone boundary rezonings, which in turn would increase the amount of employment lands and business uses within RJTC</li> <li>• Introduce a non-residential FSR for strategic sites to increase the amount of employment floor space within the centre</li> <li>• Introduce an active street frontage provision for sites across the town centre to ensure the ground floor of buildings is retained for employment purposes</li> <li>• Contribute to overall jobs growth within the Strategic Centre as per the Eastern City District Plan directions.</li> </ul>
7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable
7.3	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable

#### Focus area 8: Resources and Energy

No	Direction	Comment
8.1	Mining, Petroleum Production and Extractive Industries	Not applicable.
Focus area 9: Primary Production		
9.1	Rural Zones	Not applicable
9.2	Rural Lands	Not applicable
9.3	Oyster Aquaculture	Not applicable
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable

## Conclusion

The draft Planning Proposal for the RJTC proposes changes to land use zones; modest height increases on nominated sites; setbacks (for envelope controls); active street frontages; affordable housing levy to achieve a future town centre that will have a strong and economically viable commercial component; a well-protected and enhanced heritage character, high standard of design excellence and sustainability, new areas of public domain, footpath widening and a range of improvements including landscaping treatments, and greening opportunities; and improved housing affordability.

The draft planning proposal seeks to implement the Planning Strategy vision for the RJTC which aims to achieve sustainable growth by balancing jobs and population growth forecasts with the need to protect its significant heritage value, streetscape, and local character.

The planning proposal has been based on the findings of a high-level economic feasibility analysis undertaken by SGS in 2022/2023. The study indicates that the proposed heights and building envelopes are feasible for most of the Strategic and Infill sites as proposed in the Built Form Strategy (s.4.2 of the draft Planning Proposal), noting that the Built Form Strategy has been developed in response to the heritage and local character qualities of the town centre. The study also tested the viability of requiring affordable housing in the Strategic and Infill sites and generally found that a range of affordable housing rates can be feasibly applied commensurate with the overall viability of the FSR uplift in each of the sites. The economic feasibility underlying the proposed building envelopes is based on the primary aim of strengthening the economic role of the town centre with long term provision of employment generating commercial floor space.

A heritage analysis has also been undertaken by City Plan Heritage of the various increased height and density (FSR) scenarios, proposed under the Built Form Strategy of the draft Planning Proposal. The City Plan Heritage assessment supports the proposed building envelopes and provides key recommendations to ensure that the proposed envelopes preserve the integrity of the heritage fabric of individual buildings and of the town centre as a heritage conservation area, whilst allowing a moderate level of redevelopment to occur. Accordingly, to ensure that future development proposals within the RJTC align with the findings and recommendations of the Heritage Assessment, a new heritage provision in the RLEP 2012 will be introduced. The new provision will provide statutory assurance that all future development proposals achieve a high standard of conservation appropriate to the town centre's qualities and context; a desired future heritage character; and an enhanced town centre streetscape.

An Urban Design Study has been prepared to provide guidance for the Planning Proposal, through built form analysis and recommendations on principal planning standards. In particular, the study outlines the rationale for the design expectations and massing of future development in the town centre. The Study highlights existing and future challenges facing the town centre and seeks to respond to these by visualising and establishing the optimum overall built form and public domain for the town centre that will assist in addressing these challenges.

The recommended built form also responds to the valued heritage significance and 'fine grain' scale of the town centre and to the changing context of new public transport infrastructure (light rail) to the CBD; new health infrastructure currently under construction; and expected population and employment growth - in particular, the hospital and university employment hubs. The Urban Design Study has incorporated the findings of the economic feasibility study and heritage assessment and applied these to an extensive 3D modelling of the future town centre to test various scale and setback scenarios. The Urban Design Study has used this modelling to assist in visualising and establishing the optimum overall built form and public domain for the town centre as expressed in the draft Planning Proposal.

The planning proposal is also consistent with several key strategic directions on heritage conservation articulated in the state and local strategic planning framework including:

- Eastern City District Plan Planning Priority E6 – Creating and renewing great places and local centres, and respecting the District's heritage
- The relevant planning priorities and actions of the Randwick Local Strategic Planning Statement
- Randwick City Plan Strategic directions/outcomes which focus on excellence in Urban design and development; creating a livable city and protecting and celebrating local heritage (Outcomes 4, 6 and 7, Directions 4b, 6d and 7a)
- A range of Ministerial Directions which require that Planning Proposals contain provisions to facilitate the implementation of regional plans; conservation of heritage; mitigation of flooding; integration of land use and transport; facilitate increases in residential density and housing diversity; and retention of business zoning and activities throughout the RJTC.

In view of the above, it is recommended that the proposed Planning Proposal be supported and that the Panel provide its advice to Council. The next step of the process is a further report to Council containing the Panel's advice, with a recommendation to seek a Gateway Determination from the Department of Planning and Environment for public exhibition of the draft Planning Proposal and supporting documents.

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**Responsible officer:** David Ongkili, Coordinator Strategic Planning

**File Reference:** F2015/00431





## Development Application Report No. D33/23

**Subject:** 26 Arden & 69 Varna Street, Clovelly (DA/417/2022)

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### Executive Summary

<b>Proposal:</b>	Alterations and additions to St. Luke's Anglican Church
<b>Ward:</b>	North Ward
<b>Applicant:</b>	Penny Barletta
<b>Owner:</b>	ANGLICAN CHURCH PROPERTY TRUST DIOCESE OF SYDNEY
<b>Cost of works:</b>	\$1,809,701.00
<b>Reason for referral:</b>	<ul style="list-style-type: none"><li>- The development contravenes the development standard for floor space ratio by more than 10%</li><li>- 19 unique submissions by way of objection were received</li></ul>

### Recommendation


- A That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning and Environment has been assumed.
- B That the RLPP grant consent under Section 4.16 of the *Environmental Planning and Assessment Act 1979*, as amended, to Development Application No. DA/417/2022 for alterations and additions to St. Luke's Anglican Church at No. 26 Arden Street & 69 Varna Street, Clovelly, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  RLPP Dev Consent Conditions (commercial) - DA/417/2022 - 26 Arden Street, CLOVELLY NSW 2031 - DEV - Randwick City Council

D33/23

D33/23

	
	<p>Subject Site</p>
<ul style="list-style-type: none"> <li>- 23 Submissions were received. Of these 23 submissions, 19 were unique, 15 were in objection (1 address withheld) and 4 were provided in support (2 withheld their address).</li> <li>- The following addresses are not identified within the above image given they are located outside the Randwick Local Government Area (LGA) or a significant distance away (in excess of 40m) from the development site. <ul style="list-style-type: none"> <li>• 12 Dutruc Street, Randwick.</li> <li>• 3 Vale Street, Clovelly.</li> <li>• 1/40 Varna Street, Waverly.</li> <li>• 44 Varna Street, Waverly x3.</li> <li>• 46 Varna Street, Waverly.</li> <li>• 42 Varna Street, Waverly.</li> <li>• 48 Varna Steet, Waverly x2.</li> <li>• 38 Varna Street, Waverly.</li> <li>• Carlton Street, Waverly – Specific Address withheld.</li> <li>• 28 Carlton Street, Waverly.</li> <li>• 14 Carlton Street, Waverly.</li> <li>• 16 Douglas Street, Clovelly.</li> <li>• 16 Varna Street, Waverly.</li> <li>• 10 Knox Street, Clovelly.</li> </ul> </li> </ul>	<p>Submissions received</p> <p>North</p> <p>Locality Plan</p>

## 1. Executive summary

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

- The development contravenes the development standard for floor space ratio by more than 10%;
- 15 unique submissions by way of objection were received; and
- Development involving the (partial) demolition of a heritage item.

The proposal seeks development consent for the following works:

- Partial demolition of the northern portion of the existing hall and a penetration through the western wall of the church;
- Excavation works to the basement of the existing hall for footings and lift shaft;
- Construction of the following elements:
  - Stairs and lifts to the east of the hall connecting basement, ground and first floor;
  - Basement storage area;
  - Ground floor entry lobby, access ramp from existing church, and kitchen; and

- New first floor meeting room, office space and accessible, male and female WCs.
- Internal alterations to the existing church; and
- One signage zone for future building identification signage located on the front elevation facing Varna Street.

Council would like to highlight that for the purposes of the proposed development, the dance classes that appear to operate out of the existing church (Council made aware upon review of the submissions) do not form part of this consent, and this consent focuses solely on the physical works proposed as alterations and additions. The proposed works are to fundamentally support the functions and operations of the site as an existing place of public worship.

***place of public worship*** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

From a search of the property file, there seems to be no consent issued for the dance class, and subsequently, the use of the site for something of this nature will need to be dealt with under a separate Development Application. It is reiterated that the subject DA does not seek consent for any ancillary uses that already occur within the site. Any compliance concerns that arise from submissions relating to the subject DA should be dealt with separately.

The key issues associated with the proposal relate to:

- Variation to Floor Space Ratio
- Traffic and Parking
- Bulk and Scale (Built Form)
- Solar Access
- Flooding

The proposal is recommended for approval subject to non-standard conditions as attached with this report.

## 2. Site Description and Locality

The site is located at 69 Varna Street and 26 Arden Street, Clovelly, approximately 7km southwest of the Sydney Central Business District (CBD) and approximately 500m north of the Clovelly neighbourhood shops at the corner of Arden Street and Clovelly Road. The immediate surrounds are residential in nature and are characterised by detached and semi detached dwellings on narrow lots, with a townhouse development located immediately to the west of the site at 61-67 Varna Street. Development is generally one or two storeys in height. Clovelly Public School is located across Arden Street to the east and a neighbourhood shop is located at 24 Arden Street to the north of the site.

The site is legally described as Lot 1 and 7 of DP 2214 and has an area of 922m<sup>2</sup>. The site is irregular in shape and has two street frontages: a 49m northern frontage to Varna Street and a 12.8m eastern frontage to Arden Street. The site slopes from a high point in the north-east corner of RL47.86, to a low point in the south-west of RL45.7. The site contains the St Lukes Anglican Church building at 26 Arden Street on the corner of Arden and Varna Streets and a church hall immediately adjacent to the west at 69 Varna Street. The portion of the site at 26 Arden Street contains a heritage item identified as heritage item I04, St Luke's Anglican Church, under the *Randwick Local Environmental Plan 2012 (RLEP 2012)*. The church hall at 69 Varna Street is not heritage listed in any form.

The site's location, context and existing features are detailed in **Figures 1-3** below.

D33/23

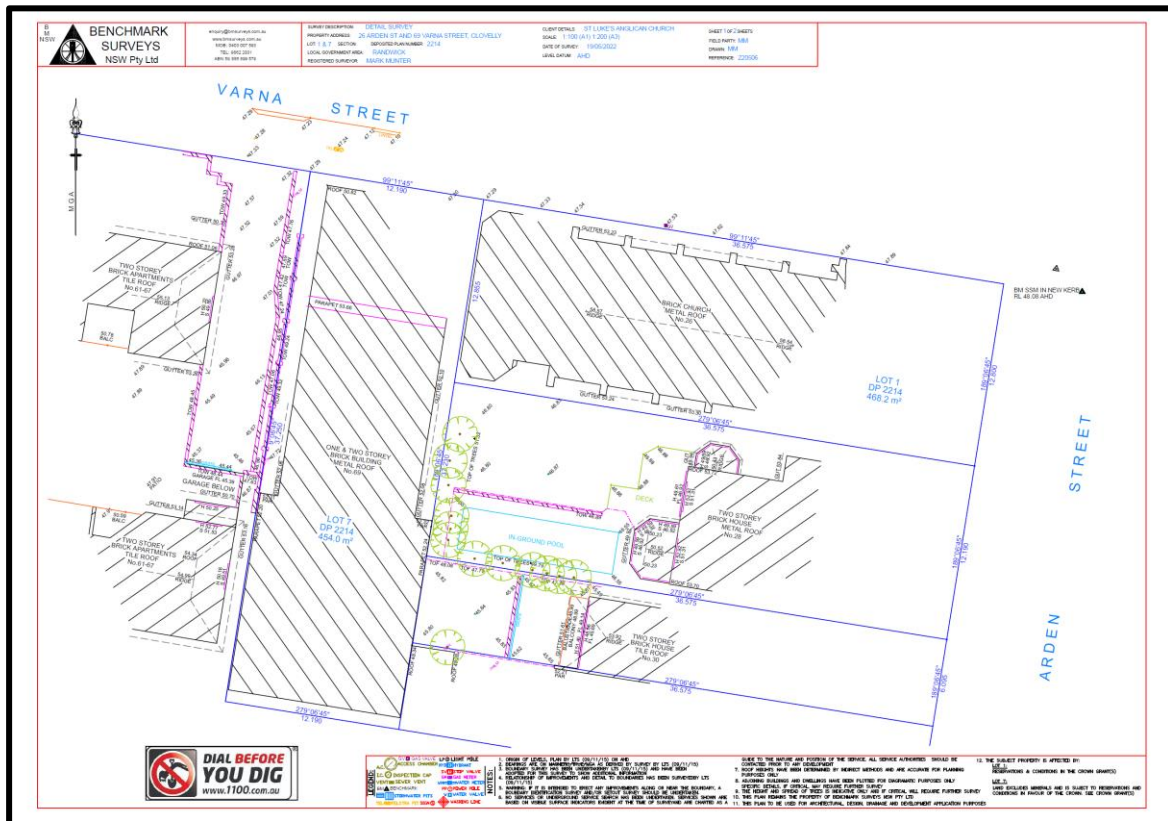
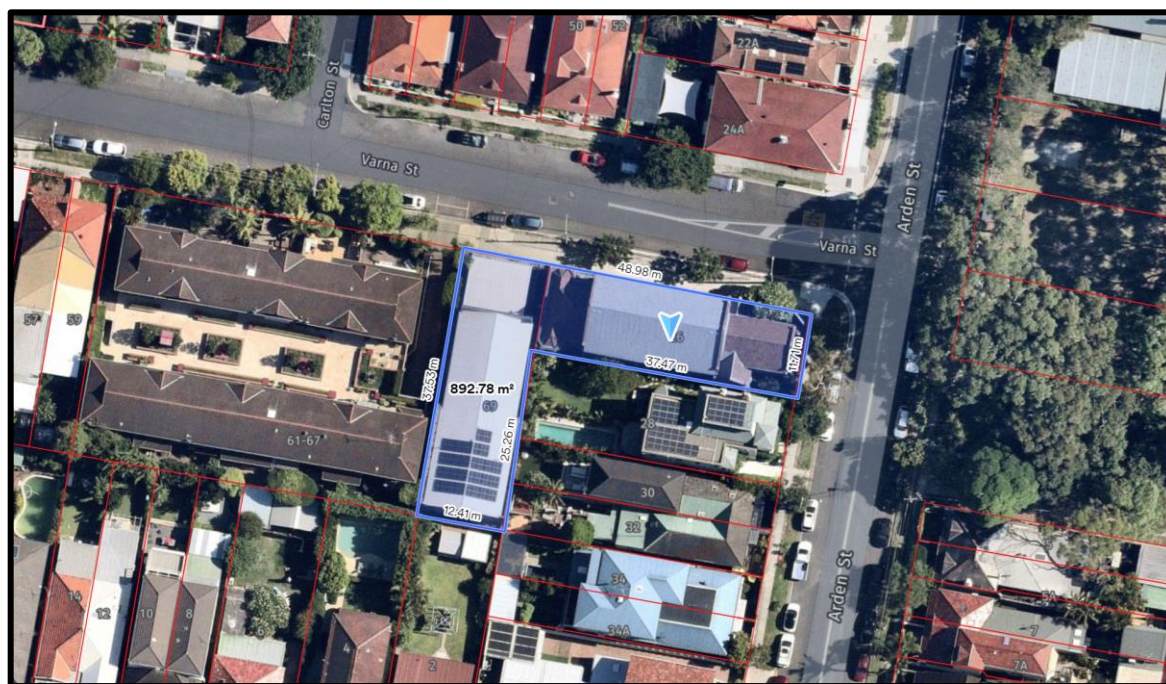


Figure 1: Site Survey (Source: Benchmark Surveys).



Figure 2: Site Locality Plan Demonstrating the Development Site(s) Outlined in Purple (Source: NSW Planning Portal).





**Figure 3: Locality Plan Demonstrating the Site Area(s) Hatched in Blue (Source: Nearmap).**

The following development surrounds the site:

- North: Varna Street immediately adjoins the site to the north, being a two-lane local road. Predominately residential uses are located further to the north on the opposite side of Varna Street in the suburb of Waverley. One and two storey semi-detached dwellings are located on the northern frontage of Varna Street immediately to the north of the site, although some single dwellings on narrow lots are located further north and west. Dwellings are a mix of contemporary designs with flat roofs and concrete render or traditional design with pitched tiled roofs and brick render. The Wholegreen Bakery, a neighbourhood shop, is located on the corner of Varna and Arden Streets to the north of the site.
- East and South: Arden Street immediately adjoins the site to the east, being a two-lane local road. The Scott Street Reserve, a local park, is located further to the east. Two single dwellings are located immediately to the south of the site at 28 and 30 Arden Street and a two storey shop top housing development is located at the corner of Boundary Street and Arden Street. Two storey semi-detached dwellings are located to the south east along Varna Street which forms the dominant development typology to the south and east of the site, with some single dwellings interspersed along Brandon Street.
- West: Part two and part three storey multi dwelling housing in the form of townhouses is located immediately to the west of the site at 61-67 Varna Street. Single storey semi-detached housing is located further to the west along Varna Street, interspersed with single dwellings.

### 3. Relevant history

The below details the relevant history of the site as follows:

#### 26 Arden Street

- DA/619/2008 – Tree Removal
- PL/76/2021 – Alterations and additions

#### 69 Varna Street

- DA/1099/1963 – Parish Hall
- BA/2560/1922 – Brick Cottage
- PL/76/2021 – Alterations and additions



As mentioned within this report, Council has no record of any ancillary uses approved on either of the sites. Any existing agreements for uses not considered ancillary to the operations of the place of public worship will need to be considered under a separate DA.

Whilst Council acknowledges concerns raised in submissions regarding the dance classes occurring within the site, the proposed development seeks consent for alterations and additions to the existing structures, and the primary use of the site is for the purposes of a Place of Public Worship. This is not changing. The POM provided outlines uses that currently occur within the premises that are ancillary to that of the church and hall.

The use of the site is not changing, and all physical works proposed aim to improve the amenity, viability and vitality of the development site. It is reiterated that any uses not considered ancillary to that of the operations of the church will be required to be dealt with under a separate DA. Council believe that a suitable condition can be imposed to ensure as such. Again, the proposed development seeks consent for works to the existing church and hall. The use of the site is not proposed to change, and any ancillary land uses are not being considered as part of this assessment. A condition of consent has been recommended that for the purposes of any other use that is not the primary use or that considered ancillary, a separate application must be submitted for consideration.

#### **4. Proposal**

The proposal seeks development consent for:

##### **Demolition**

- To accommodate the alterations and additions sought under this application, demolition works are proposed. The proposed demolition works relate to the northern portion of the existing church hall building only to 69 Varna Street and comprises of the removal of all existing internal walls and floors, in addition to the demolition of the external stairs to the eastern side of the building. Further, the proposal involves the penetration of part of the existing western wall to the church building immediately to the east to accommodate the proposed internal building link. This link will critically provide disabled access to the Church building for the first time.

##### **Retention**

- The proposal involves the retention of the southern portion of the church hall building to the rear of the site.

##### **Alterations & Additions**

- The proposed alterations and additions seek to provide new built form to the north of the retained existing structure, and also the delivery of a new additional floor above. The proposed addition is of a contemporary design and is located to the west and immediately above the western and central portion of the existing building.
- The new foyer space will provide an important pre and post meeting gather space, that with the new connection into the church building and hall will facilitate social connectivity and community fellowship. Minor internal works are also proposed to the existing church building. New door leafs, windows, mesh screens and drenchers to the existing church are proposed to meet compliance requirements associated with fire safety.
- The proposed office and meeting room space will be used for employees of the church and can be utilised for church seminars and youth group meetings where more formal meeting areas are required outside of office hours.
- The basement area will be used only for storage for the church.
- The new spaces will enable the existing activities on the church site to occur in a contemporary purpose-built space but will not result in any intensification of the use of the site.

The proposal will comprise works that deliver the following on each floor:

- Basement:
  - Storage area; and
  - Lift and stair access to upper floors;
- Ground Floor:
  - Foyer / welcome area;
  - Open plan kitchen area
  - Ramp access to the neighbouring church building; and
  - Lift and stair access to other floors.
- First Floor:
  - Office / meeting room space;
  - Accessible, male and female WCs; and
  - Lift and stair access to lower floors.

The proposal also includes a signage zone on the northern elevation fronting Varna Street for the purpose of a building identification sign.

## 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:

- 12 Dutruc Street, Randwick.
- 3 Vale Street, Clovelly.
- 1/40 Varna Street, Waverly.
- 44 Varna Street, Waverly x3.
- 46 Varna Street, Waverly.
- 42 Varna Street, Waverly.
- 48 Varna Street, Waverly x2.
- 38 Varna Street, Waverly.
- Carlton Street, Waverly – Specific Address withheld.
- 28 Carlton Street, Waverly.
- 14 Carlton Street, Waverly.
- 16 Douglas Street, Clovelly.
- 16 Varna Street, Waverly.
- 30 Arden Street, Clovelly.
- 28 Arden Street, Clovelly.
- 32 Arden Street, Clovelly.
- 10 Knox Street, Clovelly.

Issue	Comment
<b>Traffic and Parking &amp; Safety</b>	Any variation to traffic and parking requirements are assessed on merit. It is noted that this issue was raised in most if not all unique submissions of objection. It is noted, however, that at current, the existing church and hall does not facilitate any car parking on site, and the use solely relies on street parking. As it stands, the proposed development would require an additional one (1) car parking space from the additions proposed, as detailed in the Traffic Impact Assessment (TIA) provided. The proposal has also been considered by Council's Development Engineers who's comments are provided in the referral section below. Additionally, refer to the DCP assessment for further comments.
<b>Bulk and Scale</b>	Council acknowledges that the existing structures exceed the applicable floor space ratio, and the proposal seeks to increase the GFA further. A 4.6 variation request has been submitted, and Council have undertaken an assessment of the written request below. The Applicant argues that the height, bulk and scale of the proposed development is in keeping with the multi dwelling residential developments west of the subject site, and the visual transition of the scale of the built form on the church site down to the two storey residential developments to the west is appropriate and compatible with the scale of the development on the southern frontage of Varna Street. It is noted further that the proposal maintains compliance with the height of building standard in the RLEP 2012.
<b>Use of the Site for Dance Classes</b>	As mentioned throughout this report, the application seeks consent for the alterations and additions, and any uses not considered ancillary will need to be considered separately.
<b>Noise</b>	An Acoustic Impact Assessment was provided in support of the DA. The report does not address the noise emission from the existing uses that occur within the premises, and only addresses the building requirements as part of this proposal. This again aligns with the proposed works seeking consent for alterations and additions as part of this DA (no additional or ancillary uses proposed as discussed throughout this report). Suitable conditions from Council's EHO proposed.
<b>Height</b>	The proposed development maintains compliance with the development standard.

<b>Solar Access</b>	<p>The shadow analysis prepared by MCA confirms that neighbouring properties at 61-67 Varna Street and 28 Arden Street all comfortably receive at least three hours of solar access to living and outdoor spaces during the winter solstice.</p> <p>Additional analysis has also been carried out to confirm the amount and duration of solar access to 28 Arden Street to the south is acceptable. In relation to 61-67 Varna Street, the shadow diagrams demonstrate that the proposed addition only overshadows this neighbouring property between 8am-9am. The proposal does not overshadow this property at other times of day, with existing shadows from existing built form impacting the property.</p> <p>With regard to 28 Arden Street, the proposal retains solar access to the roof structure during all times of day and does not result in additional overshadowing to north facing windows or the private open space areas during the morning and early afternoon. The private open space area in particular enjoys solar access during the late morning and solar access is achieved until after 1pm.</p> <p>It is noted that one northern window is affected to the rear of the ground floor. This window does not currently achieve 3 hours of direct sunlight due to the positioning of the existing church building, however the western windows to this room achieve solar access until 2pm. Given this and the siting of the proposal to the north away from this property boundary, the design of the proposal has been well considered and provides a reasonable level of solar access to this neighbouring site. As demonstrated from the shadow diagrams, the overshadowing impacts of the proposal are limited and existing residential properties to the west and south of the site continue to enjoy significant amounts of solar access during the winter solstice. Given that much of the shadowing to this property results from the existing church building and hall and not from the proposed addition, the shadow impacts arising from the proposal are acceptable.</p>
<b>Visual Amenity &amp; Privacy Impacts</b>	The proposed development is considered to be appropriate for the urban context. It is noted that the use of the development site remains unchanged from existing. The church remains the primary use and the hall subservient to the church structure.
<b>Illuminated Signage</b>	Refer to SEPP Industry and Employment Schedule 5 assessment below.
<b>Intensification</b>	Council disagree that the site is being intensified. The seating capacity of the church is not being increased, and the additional GFA does not impact upon the capacity or intensity of the site.
<b>Incorrect notification &amp; lack of community consultation.</b>	The application was notified correctly in accordance with Council's Community Engagement Strategy.
<b>Character of neighbourhood</b>	The proposed development is considered suitable for the site, as discussed throughout this report. Furthermore, the proposed development maintains satisfaction with the objectives of the zone, as discussed further within this report.

<b>Commercial Facility in R2 Zone</b>	<p>The existing use of the site is not proposed to change, and the primary use is for the purposes of a Place of Public Worship. As outlined throughout this report, any uses, not considered ancillary to the primary use will need to be assessed separately. As mentioned above, the proposed use still maintains satisfaction with the objectives of the zone. Council is of the opinion that the site is suitable for its intended use as it supports the community by enabling a space to provide a service to meet the needs of the residents. Furthermore, Council believe it is within the public interest to reinforce the need for the use of this site for its purpose, given the history of the structure/s as well as the existing pressure on other infrastructure to support the community. Council reiterates that the existing use is permissible with consent in the zone.</p>
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As noted above, the Application also received a number of submissions in support of the proposed works, and the comments are generally summarised as follows:

- Improved access for people with disabilities.
- Improved access for people with children (prams & ramp access).
- Design is sympathetic in nature and positively contributes to the streetscape.
- The development is consistent with the aims and objectives of the RLEP 2012 and RDCP 2013 as well as the relevant SEPP's.
- The proposal represents the orderly and economic development of land and provides accessible and contemporary church facilities and ancillary office space for the future growth of the church.
- The design of the proposed addition is sympathetic in character with the existing heritage church building and neighbouring built forms adjacent to the site.
- Environmental impacts are minor in nature and will not give rise to any adverse impacts.
- The proposed development is suitable for the site and is within the public interest.
- The church needs an upgrade and as long as the facility is align with existing regulations we are in support.

## 6. Relevant Environment Planning Instruments

### 6.1. State Environmental Planning Policies

#### **SEPP (Transport and Infrastructure) 2021**

Chapter 2, Part 2.3 Division 5 Section 2.48 of the SEPP outlines requirements for development likely to affect an electricity transmission or distribution network, and states the following:

- (1) *This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—*
- the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
  - development carried out—*
    - within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
    - immediately adjacent to an electricity substation, or*
    - within 5m of an exposed overhead electricity power line,*
  - installation of a swimming pool any part of which is—*
    - within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
    - within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*



- (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—
  - (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
  - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.
- (3) Subsection (2) does not apply to development specified in subsection (1)(b) if the development involves only one or more of the following—
  - (a) internal alterations to a building,
  - (b) a change of use of an existing building,
  - (c) a change to the hours of operation specified in the development consent,
  - (d) a subdivision that does not involve construction work.

Specific reference is given to section 2.48(1)(b)(ii). It is recognised that as a result from a Council meeting on 27/05/2022, it was resolved that all infrastructure must be relocated underground. Refer to Engineering Referral response.

Notwithstanding, a referral to Ausgrid was also issued via the NSW Planning Portal, with their response provided below:

***This letter is Ausgrid's response under clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007.***

*Ausgrid does not object to the proposed development.*

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

#### ***Ausgrid Underground Cables are in the vicinity of the development***

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

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

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

*SafeWork Australia – Excavation Code of Practice.*

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

*The following points should also be taken into consideration.*

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

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

### **Ausgrid Overhead Powerlines are in the vicinity of the development**

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

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

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

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

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

*Should you have any enquiries, please contact Ausgrid at [development@ausgrid.com.au](mailto:development@ausgrid.com.au) Regards, Ausgrid Development Team*

Section 2.119 of the SEPP does not apply given that Arden Street is identified as a Regional Road, and Varna Street is identified as a local road, subsequently a referral to TfNSW is not required.

The proposed development is not identified as traffic generating development pursuant to section 2.122 and Schedule 3 of the SEPP.

### **SEPP (Resilience and Hazards) 2021**

State Environmental Planning Policy (Resilience and Hazards) 2021 applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Chapter 4, Section 4.6 of the SEPP requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on land and whether the site is suitable for residential development. The historical use of the site is for its current use, which is not proposed to change, additionally surrounding land uses as well as the zoning applicable to the site are for the purposes of residential development, therefore it is not anticipated that the site is potentially contaminated.

Furthermore, the subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject to a site audit statement. Accordingly, noting restricts Council, under the SEPP, from consenting to the carrying out of the development subject to the appropriate conditions of consent.

### **State Environmental Planning Policy (Industry and Employment) 2021**

Chapter 3 of the *State Environmental Planning Policy (Industry and Employment) 2021* (Industry and Employment SEPP) applies to all signage that, under an environmental planning instrument, can be displayed with or without development consent and is visible from any public place or public reserve.

The proposed signage zone is capable of providing signage which is consistent with the residential character of the surrounding area, is complementary to the character of the proposed works and existing built form and seeks to provide signage which can effectively communicate the location of the church. The position, design and location of the proposed signage have been considered and managed in a way that is capable of providing a high-quality design and finish.

Section 3.15 of the SEPP outlines the requirements for advertisements with a display area greater than 20m<sup>2</sup> or higher than 8m above the ground.

The signage zone is dimensioned at 2.05m x 0.75m which equates to 1.53m<sup>2</sup> and therefore referral to TfNSW is not necessary in this instance.

An assessment against Schedule 5 of the SEPP is provided in the table below:

Assessment Criteria	Applicant Assessment	Council Officer Assessment	Compliance (Yes/No)
<b>Character of the Area</b>			
<i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i>	<i>The proposed signage zone is of an appropriate location, size and scale being complementary with other signage in the immediate locality. The signage zone will enable future signage which informs visitors and members of the location of the church. The nature and design of the signage is consistent with the existing and desired future character of the site and the character of the surrounding area.</i>	The sighting, orientation and size of the proposed signage zone is appropriate within the context of the building.	Yes
<i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	<i>The proposed signage zone is not for the purposes of outdoor advertising signage.</i>	N/A.	N/A.
<b>Special Areas</b>			
<i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i>	<i>The proposed signage zone is of an appropriate size and scale will not detract from the visual quality of the area as all signage zones are appropriately located and oriented relative to existing development and the streetscape. The proposed signage will not have any adverse impact on the amenity or visual quality of the surrounding area.</i>	The sighting, orientation and size of the proposed signage zone is appropriate within the context of the building. The proposed zone is not considered to have an adverse impact on the locality.	Yes.
<b>Views and Vistas</b>			
<i>Does the proposal obscure or compromise important views?</i>	<i>The proposed signage zone will not have any adverse impact on the amenity or visual quality of</i>	The proposed signage zone is appropriately	Yes.

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	<i>the surrounding area as they will not compromise views along the street, being flush against the building. Further, the proposed signage is of a scale which relates to the existing building and signage on Varna Street.</i>	located to ensure that no views and vistas are compromised. It is also noted that the signage zone accommodates an area for a flat mounted wall sign, and would therefore not impact on views and vistas based on the nature of a wall sign.	
<i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	<i>As above</i>	<i>As above.</i>	<i>Yes.</i>
<i>Does the proposal respect the viewing rights of other advertisers?</i>	<i>No other existing advertising structures are located near the vicinity of the proposed signage zone and thus the viewing rights of advertisers is respected.</i>	<i>Agree.</i>	<i>Yes.</i>
<b>Streetscape, Setting or Landscape</b>			
<i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i>	<i>The scale, proportion and form of the proposed signage zone is appropriate as it is complementary with the bulk and scale of the existing and proposed built form. The proposed signage zones will be visually read and clearly relate to as a part of the church.</i>	<i>Agree.</i>	<i>Yes.</i>
<i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i>	<i>The proposed signage zone complements the character of the area and will contribute to establishing the character of the site.</i>	<i>The location of the signage zone integrates well within the streetscape so as to not cause adverse impacts.</i>	<i>Yes.</i>
<i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i>	<i>Not applicable. The signage zones proposed is not for the purposes of advertising and does not relate to existing advertising on or near the site.</i>	<i>N/A.</i>	<i>N/A.</i>
<i>Does the proposal screen unsightliness?</i>	<i>Not applicable to the proposal. The signage zones do not screen unsightliness.</i>	<i>N/A.</i>	<i>N/A.</i>
<i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i>	<i>The proposed signage zone is of an appropriate height and will not protrude above buildings, structures or tree canopies in the area or locality.</i>	<i>The location of the proposed zone is appropriate within the context of the site.</i>	<i>Yes.</i>
<i>Does the proposal require ongoing vegetation management?</i>	<i>The proposal does not require vegetation management.</i>	<i>N/A.</i>	<i>N/A.</i>

<b>Site and Building</b>			
<i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i>	<i>The scale and proportion of the signage zone is compatible and complementary to the proposed scale and proportion of the proposed addition.</i>	<i>The zone is considered to integrate well with the features of the overall development.</i>	Yes.
<i>Does the proposal respect important features of the site or building, or both?</i>	<i>The proposed signage zone is respectful of the scale of the existing and proposed building.</i>	As above.	Yes.
<i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i>	<i>The proposal will be of a simple design that effectively identifies and promotes the location of the building.</i>	<i>The proposal is for a signage zone only. Any signage will be sympathetic in design.</i>	Yes.
<b>Associated Devices and Logos with Advertisements and Advertising Signs</b>			
<i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i>	<i>The proposed signage will be fixed securely to the building.</i>	<i>Zoning will facilitate a Flat wall sign.</i>	Yes.
<b>Illumination</b>			
<i>Would illumination result in unacceptable glare?</i>	<i>The proposal seeks consent for a signage zone and illumination through back lighting. Future signage will be controlled by the church which is capable of controlling illumination. Glare control devices can be affixed and confirmed at detailed design stage.</i>	Noted.	Yes.
<i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i>	As above.	Noted.	Yes.
<i>Would illumination detract from the amenity of any residence or other form of accommodation?</i>	As above.	Noted.	Yes.
<i>Can the intensity of the illumination be adjusted, if necessary?</i>	As above.	Noted.	Yes.
<i>Is the illumination subject to a curfew?</i>	As above.	Noted.	Yes.
<b>Safety</b>			
<i>Would the proposal reduce the safety for any public road?</i>	<i>Due to the design, location and scale of the signage, the proposal will not have any impact on safety for any public road and its users, particularly pedestrians and cyclists.</i>	Agree.	Yes.



Would the proposal reduce the safety for pedestrians or bicyclists?	As above.	Agree.	Yes.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage zone will not obscure sightlines from public areas.	Agree.	Yes.

6.2. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R2 Low Density Residential under Randwick Local Environmental Plan 2012 and a place of public worship is permissible with consent.

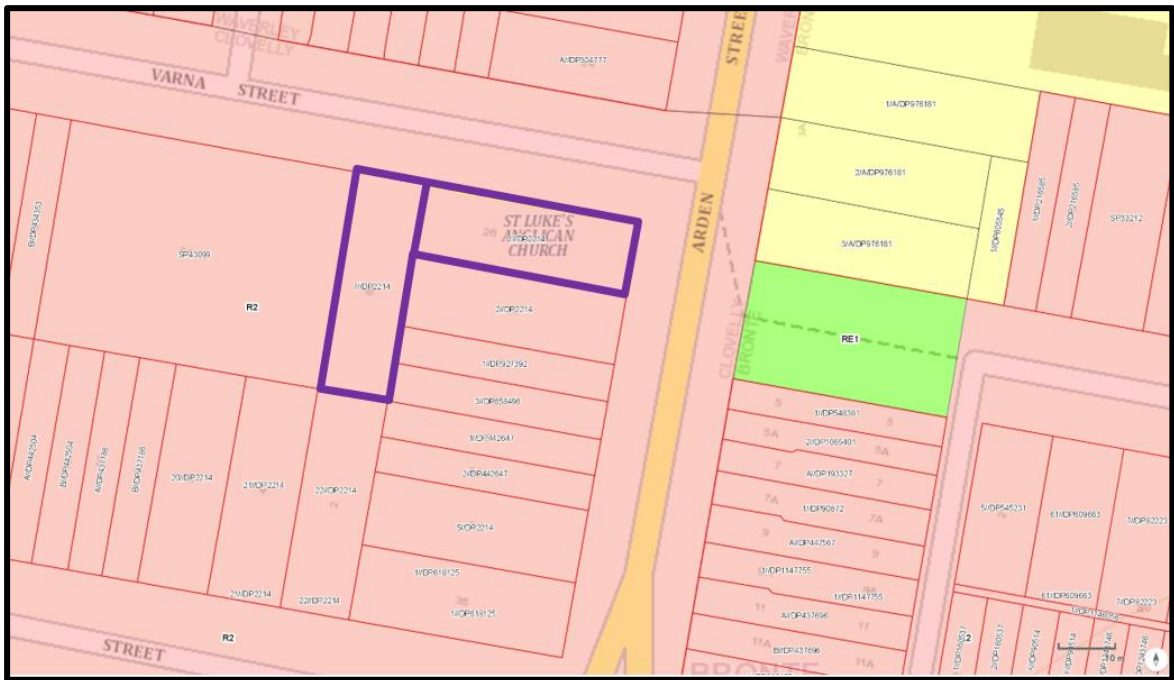


Figure 4: Land Zoning Map with Development Site(s) Outlined in Purple (Source: NSW Planning Portal).

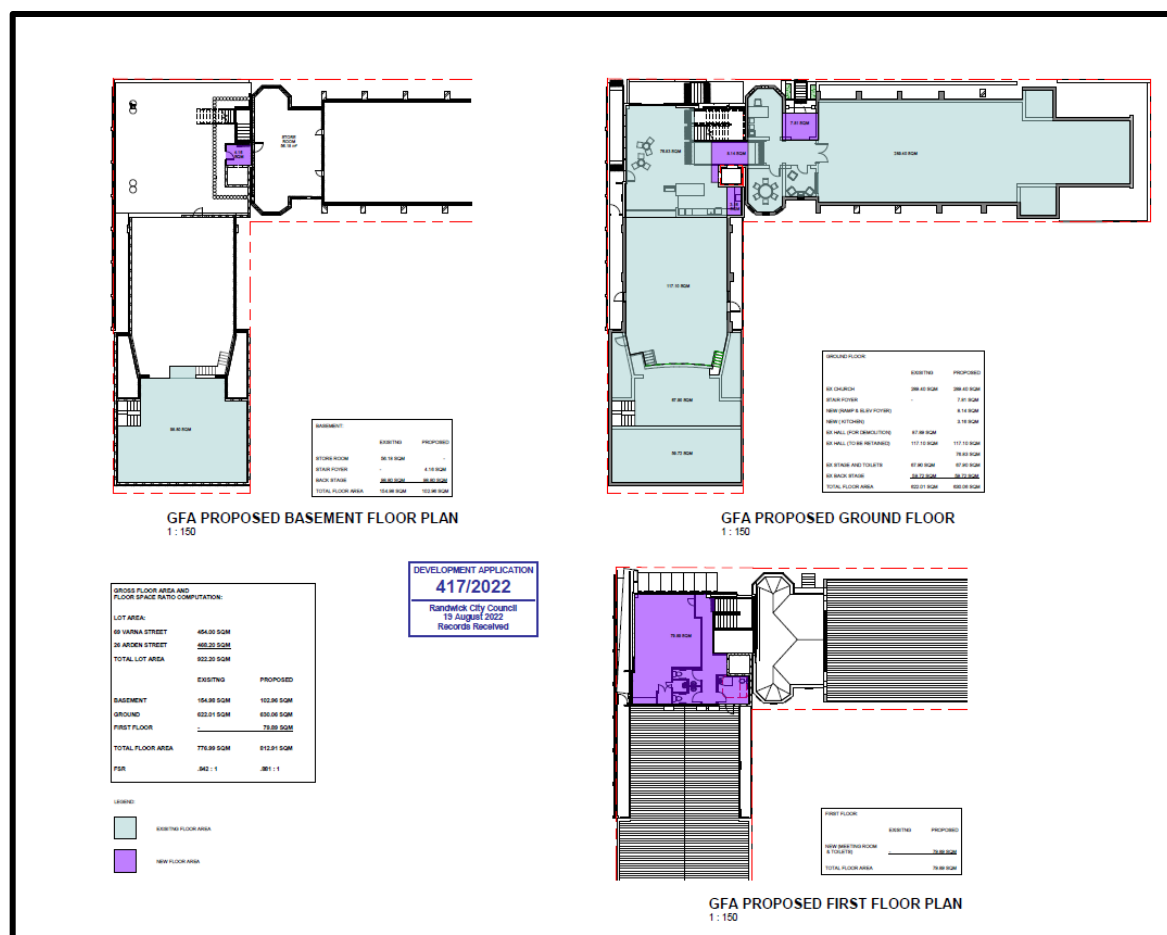
The proposal is consistent with the specific objectives of the zone in that the proposed development increases the vitality and viability of the existing premises whilst maintaining a compatible land use. The use of the site supports the community in that it provides a facility that meets their day to day needs.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.5:1	Existing – 0.85:1 Proposed – 0.89:1	No.
Cl 4.3: Building height (max)	9.5m	Proposed – 8.03m	Yes.

6.2.1. Clause 4.6 - Exceptions to development standards

The Applicant has provided a GFA Calculation Diagram, which is provided as **Figure 5** below.



**Figure 5: Applicant's GFA Diagrams (Source: Architectural Plans).**

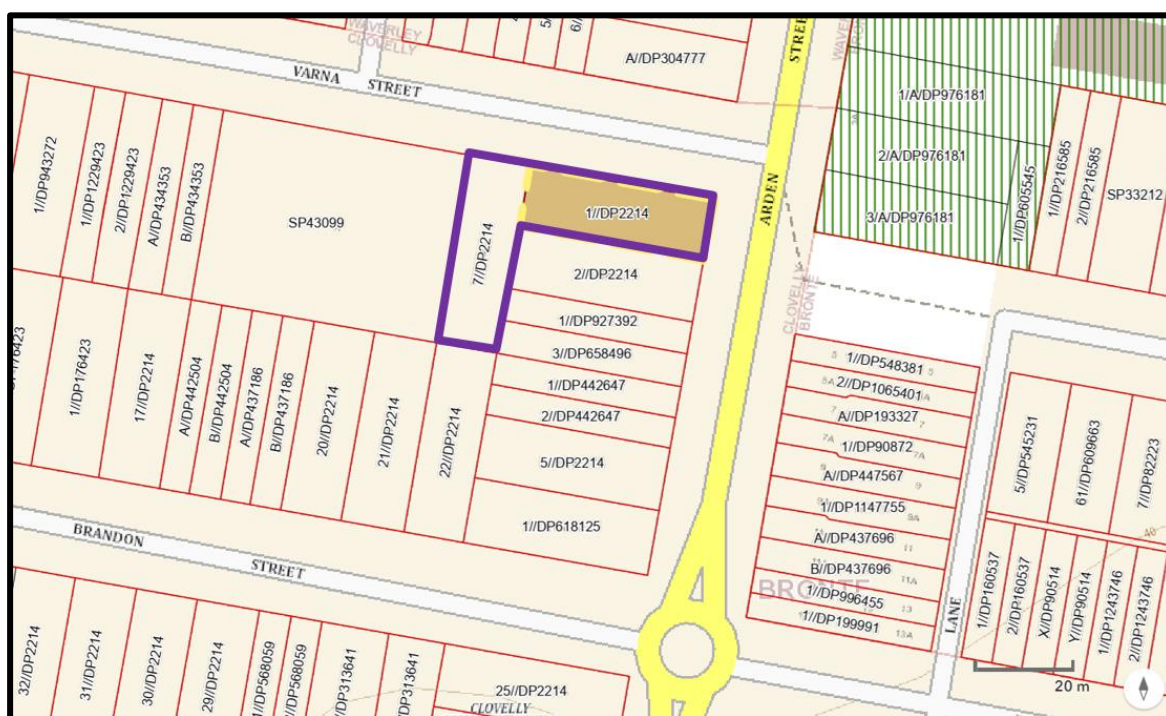
Council notes that within the original written variation the Applicant failed to include any of the set of stairs within their calculations. In response, the Applicant provided an addendum request which provided amended numerical data to reflect the correct calculations.

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

#### 6.2.2. Clause 5.10 - Heritage conservation

The St Luke's Anglican Church building is located on the site and is identified as an item of local heritage significance in item I05 in Schedule 5 of the RLEP 2012. The church building was constructed in 1923 and has been used by the church for the last 99 years. The following Statement of Significance for St Luke's Anglican Church is sourced from the NSW Heritage Database, reference number 2310041:

*The church is one of a number of mission churches originally administered by St Nicholas' Anglican Church, Coogee. It is also one of the many memorials erected in the aftermath of the First World War.*



**Figure 6: Heritage Zoning Map with Development Site(s) Outlined in Purple (Source: NSW Planning Portal).**

The church building is a lofty single storey building constructed of brick with an exposed stone base. The building is an intact example of the Inter-War Gothic style and includes brick buttresses to the northern façade which are reminiscent of this style. In addition, the church retains pointed arched windows containing decoratively-detailed stained-glass windows along the eastern and northern facades. Internally, the church retains many of its original features, including the large open nave space, comprising exposed brick walls, and an exposed timber ceiling.

Refer to Appendix 1 for comments from Council's Heritage Officer.

#### 6.2.3. Clause 5.21 – Flood Planning

Survey information for the subject site shows the land generally slopes down in a southern direction, with levels ranging from 47.44mAH along the northern boundary and 45.70mAH along the southern boundary.

The subject site lies within the Clovelly catchment of the BMT WBM Clovelly and Waverly Flood Study (hereafter referred to as the Clovelly flood study). The Clovelly flood study was therefore used as reference with input values for the hydrology and hydraulic model. A Report prepared by Donovan Associates to create a flood model to determine the overland flow from the local catchment in the 1% AEP flood event.

Refer to Development Engineering referral comments and associated conditions of consent.

### 7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Existing	Proposal	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max)	0.5:1 or 461m <sup>2</sup>	0.85:1 (777m <sup>2</sup> ) (68%)	0.89:1	823m <sup>2</sup>	78%

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

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

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

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

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

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

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

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

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

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



'sufficient' did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.

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

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

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

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

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

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

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

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

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

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

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

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

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

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

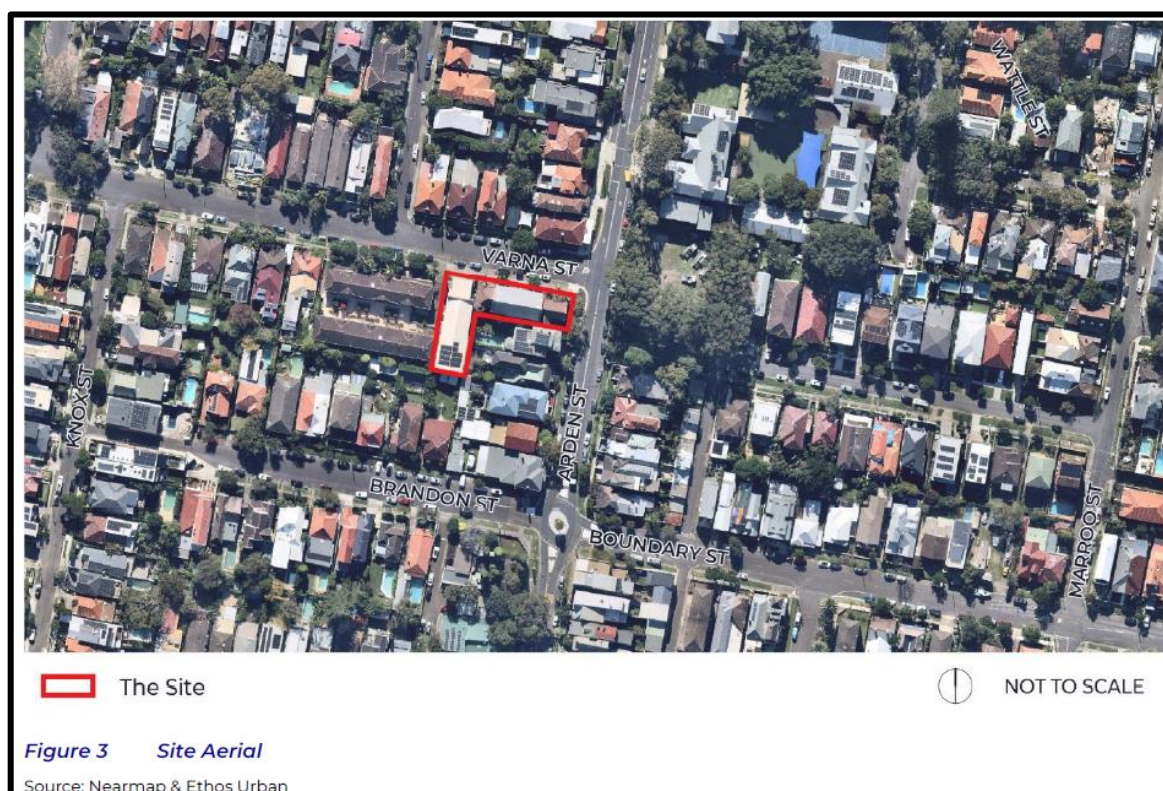
- (a) *to ensure that the size and scale of development is compatible with the desired future character of the locality*



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

#### *Existing context*

*The proposed built form is appropriate for the site and is compatible with the characteristics of the surrounding context. The immediate locality is predominately residential in character but contains a variety of buildings forms, scales and uses. Development immediately adjoining the site ranges from 1 to 3 storeys in height. The townhouse development at 61-67 Varna Street presents as a two storey development to the street front and increases to three storeys to the rear as the land falls away to the south. Furthermore, 28 Arden Street to the south of the church building is a detached dwelling which is part 2, part 3 storeys in height. As semi-detached dwellings and single dwellings on narrow lots is the predominant building typology in the area, dwellings are generally built to side boundaries with no or little building separation between allotments as shown in Figure 3.*



**Figure 7: Figure 3 Referenced in Applicants Clause 4.6 Variation Request – Site Aerial (Source: Architectural Plans).**

#### *Proposed development*

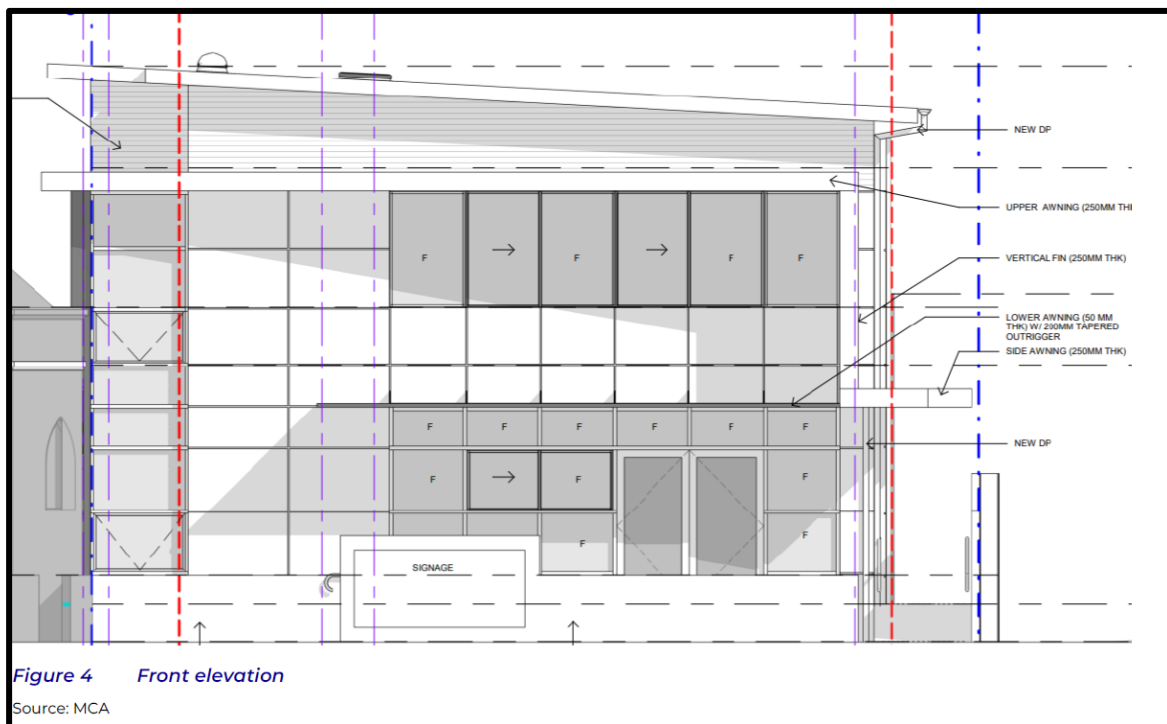
*The height, bulk and scale of the proposal is similar to multi dwelling housing residential development to the west. The proposal is compliant with the height of buildings control for the site and visually transitions the scale of built form on the church site down to two storey residential development to the west, thus being compatible with the scale of development on the southern street frontage of Varna Street. The proposal appears as a two storey development with narrow setbacks, which is consistent with the predominant built form character of Varna Street. The proposed addition maintains the existing building line of the existing building, which is compatible with the front setback of surrounding development and matches the setback of the existing church building. The church building is the most prominent development on the street and the proposed addition maintains a bulk, scale and materiality which reflects this. The proposal has a positive built form relationship with the heritage listed church building to the east being of a comparable massing to the church whilst maintaining a similar height to the lower roof of the church entry on Varna Street. This ensures that the proposal acknowledges the prominence of the church building on the site and the proposed design is responsive to the heritage context of the site. The proposal maintains the existing front and side setbacks to Varna Street established by the existing*

building. Neighbouring development at 61-67 Varna Street consists of multi dwelling housing with narrow setbacks, an east-west orientation and a height of two storeys at the street transitioning to three storeys to the rear. As such, this presents as a more intensive form of residential development to the street when compared to neighbouring dwelling houses to its north and west. With the site of the proposed development located between the existing church building and this adjoining site, the proposed scale of built form is compatible with its surrounds. As such, the proposal acknowledges and is compatible with the siting and scale of existing development, with particular regard to the adjoining residential development and the heritage church building on the site.

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

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

The proposed addition is of a contemporary design which complements the character of the church hall to the rear. It incorporates modern materials, such as cement and metal and metal louvres, frames and roofing which distinguishes the proposal from surrounding built form. Significant glazing is proposed to the front northern elevation which activates the street front, articulates the front façade and provides benefits in relation to thermal comfort from its positive orientation towards the sun. These glazed elements also reduce the appearance of visual bulk to the street and appropriately provides a scale of development similar to the neighbouring church building and residential development to the west of the site as shown in Figure 4.



**Figure 8: Figure 4 Referenced in Applicants Clause 4.6 Variation Request – Front Elevation (Source: Architectural Plans).**

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

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

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

*The St Luke's Anglican Church building is located on the site and is identified as an item of local heritage significance in item I05 in Schedule 5 of the RLEP 2012. The church building was constructed in 1923 and has been used by the church for the last 99 years. The church building is a lofty single storey building constructed of brick with an exposed stone base. The building is an intact example of the Inter-War Gothic style and includes brick buttresses to the northern façade which are reminiscent of this style. The proposed addition is sympathetic to the scale of the existing church on the site, as well as the existing dwellings on both Arden and Varna Streets. The design of the proposal provides a built form which is of a lower height than the church and acknowledges its heritage values. A contemporary flat roof form has been chosen for the new hall as it allows the new building to physically sit as low as possible when viewed from the street. Furthermore, the proposed addition retains the existing building line and has been setback from Varna Street behind the line of the northern façade of the church. In particular, the new building has been designed to be setback behind the line of the radiating chapel towards the northwest corner of the church, to ensure it remains a prominent feature of the streetscape. The combination of the low roof design and building line has the effect of retaining views of the church when viewed from the public domain.*

*The materials and finishes selected are compatible with the character of the heritage listed church. Whilst the proposal is of a contemporary design, it has an articulated façade of modern building materials including cladding, concrete render and glazing. The front door of the building is open to the public domain which serves to articulate the ground floor of the building.*

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

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

*The proposal does not present significant adverse impacts to the amenity of surrounding residential land. The proposal adopts a 1.2m side setback to the west, maintains a relatively flat roof and is 2 storeys in height, which is comparable to the height and scale of other residential development in the locality. The facades presenting to the public and private domain are also well articulated with contemporary materials and finishes such as concrete cladding and substantial amounts of glazing. This has the effect of articulating and modulating the façade. Therefore, the proposal does not present adverse impacts to neighbouring development in terms of visual bulk. As aforementioned, the proposed addition is set further back from the street than the existing building line of the church which retains views along Varna Street to the church building. The proposal provides only one window to the western elevation which does not directly overlook private open space. This limited glazing to the side boundary limits privacy impacts to the neighbouring residential property at 61-67 Varna Street. The proposal results in acceptable shadowing considering the orientation of the site, the nature of the proposed addition and the surrounding context. The shadow analysis prepared by MCA confirms that neighbouring properties at 61-67 Varna Street and 28 Arden Street all comfortably receive at least three hours of solar access to living and outdoor spaces during the winter solstice. The design development for the proposal was significant to achieve this desired outcome. Additional analysis has also been carried out to confirm the amount and duration of solar access to 28 Arden Street to the south is acceptable. Part 5.1 of the Low Density Residential DCP requires that the north facing windows of living areas, private open space areas and roofing above 6m above existing ground level receive at least three hours of solar access during the winter solstice. The Architectural Plans at Appendix A provide shadow diagrams in plan and elevation which demonstrate the achievement of this DCP control. In relation to 61-67 Varna Street, the shadow diagrams demonstrate that the proposed addition only overshadows this neighbouring property between 8am-9am. The proposal does not overshadow this property at other times of day, with existing shadows from existing built form impacting the property. In relation to 28 Arden Street, the shadow diagrams demonstrate that shadows cast by the proposed addition affect the*

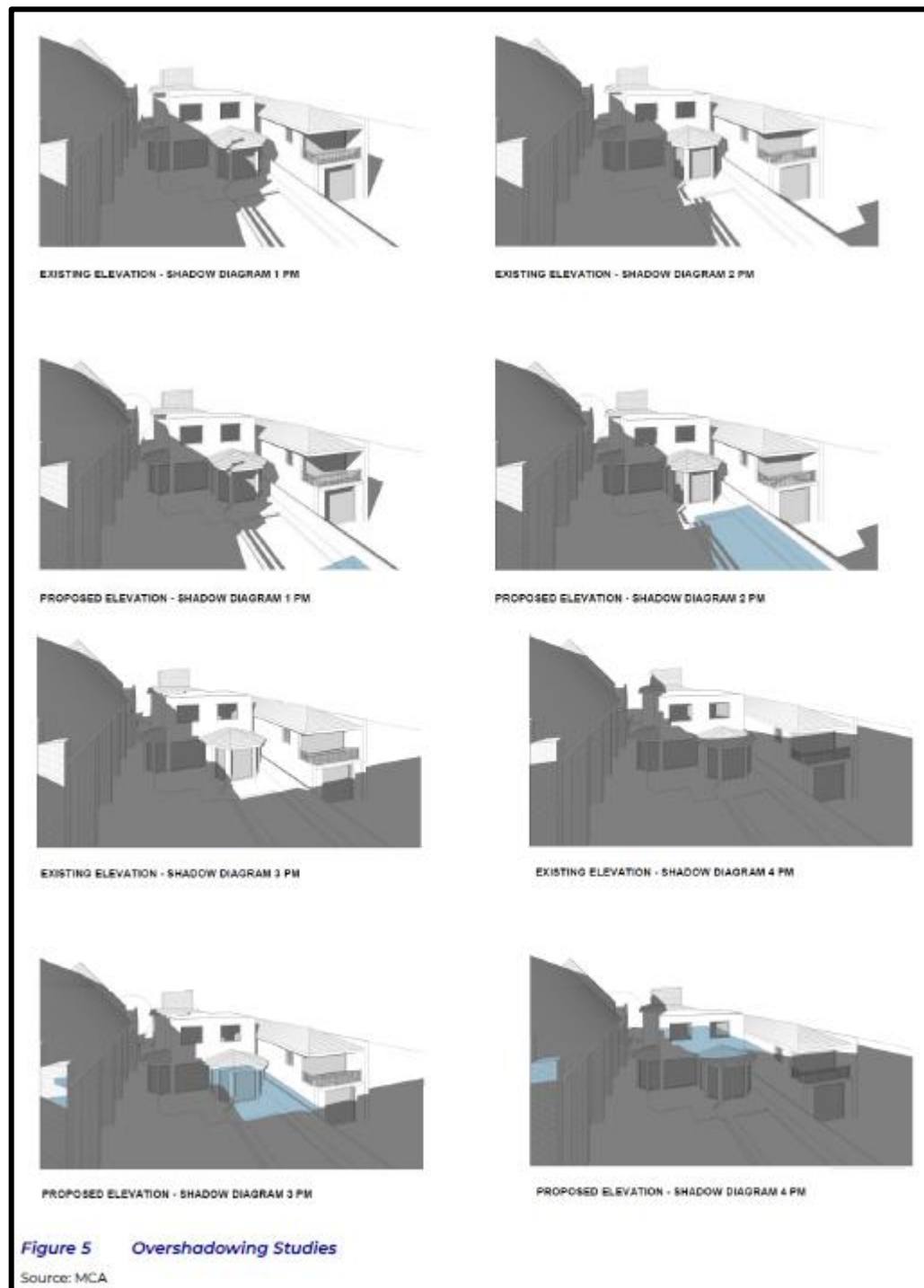
property from 12pm during the winter solstice. The additional shadows cast by the proposal in Figure 9 are summarised as follows:

- 12 and 1pm: minor additional shadows to the western portion of the private open space area, containing the pool
- 2pm: larger area of shadow over the pool, noting it is unlikely to be in use during midwinter;
- 3pm: shadows to the western and northern windows overlooking the rear private open space area on the ground floor; and
- 4pm: shadows to the west facing windows on the first floor.

The proposal retains solar access to the roof structure during all times of day and does not result in additional overshadowing to north facing windows or the private open space areas during the morning and early afternoon. The private open space area in particular enjoys solar access during the late morning and solar access is achieved until after 1pm.

It is noted that one northern window is affected to the rear of the ground floor. This window does not currently achieve 3 hours of direct sunlight due to the positioning of the existing church building, however the western windows to this room achieve solar access until 2pm. Given this and the siting of the proposal to the north away from this property boundary, the design of the proposal has been well considered and provides a reasonable level of solar access to this neighbouring site. As demonstrated from the shadow diagrams, the overshadowing impacts of the proposal are limited and existing residential properties to the west and south of the site continue to enjoy significant amounts of solar access during the winter solstice. Given that much of the shadowing to this property results from the existing church building and hall and not from the proposed addition, the shadow impacts arising from the proposal are acceptable.





**Figure 9: Figure 5 Referenced in Applicants Clause 4.6 Variation Request – Overshadowing Studies (Source: Architectural Plans).**

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

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

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



Clause 4.6(3)(b) of the RLEP 2013 requires the contravention of the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify the contravention. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (Initial Action at [24]). In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site at [60]. In this instance the relevant aspect of the development are part of the fourth floor and roof structures that result in the exceedance of the development standard. There are sufficient environmental planning grounds to justify contravention of the height of buildings development standard in this specific instance, as described below.

The FSR development standard mirrors the surrounding residential zoned land and reflects the type of FSR for that specific use. The unique and historic use of the site as a Place of Public Worship necessitates different needs and expectations for the density of development. This is reflected by the existing development on the site, which already significantly exceeds the FSR by 68%. The proposed addition of 36m<sup>2</sup> or 0.03:1 is a very minor addition above that existing variation. The existing use and development on the site therefore provide specific environmental planning grounds that justify contravening the development standard in this instance. As discussed in the SEE, the proposal is necessary to ensure the Church can continue to provide essential social infrastructure for the community, including equitable access. The proposal involves alterations and additions to the existing church hall on the site, which requires the demolition of the existing foyer and the retention of the southern portion of the building including the hall. This approach results in greater environmental benefits through the reduction in the generation of waste material when compared to a complete redevelopment of the site. As a result, there is a restriction on the proposal on its ability to deliver its outcomes in terms of providing accessible entry facilities as well as contemporary office space under the FSR limit. Whilst the proposal seeks environmentally sustainable outcomes through the retention of portions of the existing In Initial Action, the Court stated that the phrase "environmental planning grounds" is not defined but would refer grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the Act. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, as set out in Table 1 we consider the proposed development is broadly consistent with each object, notwithstanding the proposed variation of the FSR development standard.

**Table 1** *Assessment of consistency of the proposed development with the Objects of the EP&A Act*

Object	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal will promote the social welfare of the community by improving the church facilities provided by St Lukes Anglican Church. The church seeks to improve the functionality and useability of the church buildings in line with contemporary church needs, such as the importance of a lobby for after service gathering and meeting areas, child safe spaces and accessible and equitable access. The development will ensure the on-going use and care of the heritage listed building and enable the Church, which has met on the site since the 19th Century, to continue to play a key part in the Clovelly community into the future.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The proposal will promote the retention of the majority of the existing hall and reduces demolition and construction waste, thereby promoting ecologically sustainable development. Further, the site is oriented to the north and the proposal maximises glazing to this elevation to promote thermal comfort and reduce energy usage.
(c) to promote the orderly and economic use and development of land	The proposal promotes the orderly and economic use and development of land through the development of an existing place of public worship which will not unreasonably impact upon residential neighbours. This allows for the use of the site to provide for the contemporary needs of a Church that is aiming to strengthen relationships in its community, and with the wider community.
(d) to promote the delivery and maintenance of affordable housing	The proposal is not directly related to the delivery and maintenance of affordable housing.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The proposal will not have any impact on threatened species or ecological communities.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	<p>No items or areas of built or cultural heritage will be negatively impacted by the proposal.</p> <p>The proposed works to the heritage item are addition are overseen by St Lukes Anglican Church which seeks to respect, retain and manage the heritage significance of the church and its landholding. The proposed addition maintains the existing building line which reduces visual impacts of bulk and scale and retains existing views along Varna Street. Therefore, the sustainable management of heritage can continue in light of the proposal.</p>
(g) to promote good design and amenity of the built environment	The proposal will promote good design and amenity of the built environment by exhibiting a contemporary and high-quality design which considers the residential characteristics of its surrounds the heritage value and significance of the site. This is demonstrated by the siting of the proposed addition in line with the existing building to ensure that the proposal is of a height and siting which respects and is sympathetic with the existing St Lukes Clovelly church building. <b>Section 3.2.2</b> of this variation request demonstrates that the proposal is compliant with the DCP objectives in relation to shadowing in providing and retaining sunlight to neighbouring private open space and living areas.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposed development, inclusive of the variation, can comply with the relevant provisions of the BCA and will promote the health and safety of occupants.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	This object is not relevant to this proposal, however, the proposal has adhered to the required planning processes for the site and scale of development.
(j) to provide increased opportunity for community participation in environmental planning and assessment	The proposed development will be publicly exhibited in accordance with the requirements of Council's Community Participation Plan.

**Figure 10: Table 1 Referenced in Applicants Clause 4.6 Variation Request – Objects of the Act (Source: Architectural Plans).**

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

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Floor Space Ratio standard and R2 Low density Residential zone is provided below:

***Assessment against objectives of floor space ratio standard***

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

**4. Has the concurrence of the Secretary been obtained?**

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

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

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

*Is there public benefit from maintaining the development standard?*

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

**Conclusion**

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

**8. Development control plans and policies**

**8.1. Randwick Comprehensive DCP 2013**

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

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

**9. Environmental Assessment**

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	The Draft Comprehensive Planning Proposal to update the Randwick Local Environmental Plan (RLEP) 2012 was publicly exhibited from the 31 May to the 12 July 2022.  The proposed development would not be inconsistent with the provisions of the draft RLEP 2012.
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 <b>Appendix 3</b> and the discussion in key issues below.
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	N/A.
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.

### 9.1. Discussion of key issues

- Built form and variation to Floor Space Ratio
  - Refer to clause 4.6 written variation request.
  - The proposed built form is considered to be appropriate in terms of transitions of scale of built form within the direct locality. The visual transition on the church side of the site down to the two storey residential development within the west is compatible with the scale of development on the southern street frontage of Varna Street. The existing church remains to be the most predominant development within the street and the proposed addition maintains the existing building line which is compatible with the front setback of surrounding developments and therefore maintains the bulk, scale and materiality.
  - The proposal has a positive built form relationship with the heritage listed church building to the east being of a comparable massing to the church whilst maintaining a similar height to the lower roof of the church entry on Varna Street. This ensures that the proposal acknowledges the prominence of the church building on the site

and the proposed design is responsive to the heritage context of the site. This is also reflected in the building materials to the façade. The proposal maintains the existing front and side setbacks to Varna Street established by the existing building.

- The proposal is for a contemporary addition to the existing church hall to the site which seeks to provide a modern foyer, wheelchair access and office space to meet the contemporary needs of the church. While the FSR control reflects the surrounding low density residential zoning, it does not reflect the unique use and historic development on the site which occupies almost the entire site and has a larger FSR as a consequence. The additional GFA does not impact on the capacity or intensity of the use on the site and has been located in a manner that reflects the surrounding built context and planning controls.
- Traffic and Parking
  - The Applicant states that there is no additional traffic generation from the existing church services given that the seated capacity of the church is not increasing.
  - Currently, as it stands, the proposed church and associated hall rely solely on street parking and does not provide off street parking to support the existing use (place of public worship).
  - Whilst the additional works increase the GFA, technically it only increases the car parking requirements by 1 space. Notwithstanding the TIA provided concludes that the proposal 'will have minimal to no impact on the existing parking conditions and that there will be sufficient on street parking within walking distance'.
  - A Travel Plan will be conditioned in accordance with Engineering Referral comments.
- Solar Access
  - The proposal results in acceptable shadowing considering the orientation of the site, the nature of the proposed addition and the surrounding context. The shadow analysis prepared by MCA confirms that neighbouring properties at 61-67 Varna Street and 28 Arden Street all comfortably receive at least three hours of solar access to living and outdoor spaces during the winter solstice. The design development for the proposal was significant to achieve this desired outcome. Additional analysis has also been carried out to confirm the amount and duration of solar access to 28 Arden Street to the south is acceptable.
  - Part 5.1 of the Low Density Residential DCP requires that the north facing windows of living areas, private open space areas and roofing above 6m above existing ground level receive at least three hours of solar access during the winter solstice. The Architectural Plans at Appendix A provide shadow diagrams in plan and elevation which demonstrate the achievement of this DCP control. In relation to 61-67 Varna Street, the shadow diagrams demonstrate that the proposed addition only overshadows this neighbouring property between 8am-9am. The proposal does not overshadow this property at other times of day, with existing shadows from existing built form impacting the property. In relation to 28 Arden Street, the shadow diagrams demonstrate that shadows cast by the proposed addition affect the property from 12pm during the winter solstice. The additional shadows cast by the proposal in Figure 9 are summarised as follows:
    - 12 and 1pm: minor additional shadows to the western portion of the private open space area, containing the pool
    - 2pm: larger area of shadow over the pool, noting it is unlikely to be in use during midwinter;
    - 3pm: shadows to the western and northern windows overlooking the rear private open space area on the ground floor; and
    - 4pm: shadows to the west facing windows on the first floor.
  - The proposal retains solar access to the roof structure during all times of day and does not result in additional overshadowing to north facing windows or the private open space areas during the morning and early afternoon. The private open space area in particular enjoys solar access during the late morning and solar access is achieved until after 1pm. It is noted that one northern window is affected to the rear of the ground floor. This window does not currently achieve 3 hours of direct sunlight due to the positioning of the existing church building, however the western windows to this room achieve solar access until 2pm. Given this and the siting of the proposal to the north away from this property boundary, the design of the



proposal has been well considered and provides a reasonable level of solar access to this neighbouring site. As demonstrated from the shadow diagrams, the overshadowing impacts of the proposal are limited and existing residential properties to the west and south of the site continue to enjoy significant amounts of solar access during the winter solstice. Given that much of the shadowing to this property results from the existing church building and hall and not from the proposed addition, the shadow impacts arising from the proposal are acceptable.

- Flooding
  - Refer to Engineering Referral comments and associated conditions of consent.

## 10. Conclusion

That the application for alterations and additions to St Luke's Anglican Church 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 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 design and planning outcome for the site will increase the viability and vitality of the existing place of public worship.
- The development enhances the visual quality of the public domain/streetscape.

## Appendix 1: Referrals

### 1. External referral comments:

#### 1.1. Ausgrid

***This letter is Ausgrid's response under clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007.***

*Ausgrid does not object to the proposed development.*

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

#### ***Ausgrid Underground Cables are in the vicinity of the development***

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

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

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

*SafeWork Australia – Excavation Code of Practice.*

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

*The following points should also be taken into consideration.*

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

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

#### ***Ausgrid Overhead Powerlines are in the vicinity of the development***

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

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

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

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

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

*Should you have any enquiries, please contact Ausgrid at [development@ausgrid.com.au](mailto:development@ausgrid.com.au) Regards, Ausgrid Development Team*

## **2. Internal referral comments:**

### **2.1. Heritage planner**

#### **The Site**

The site is occupied by St Luke’s Anglican church, listed as a heritage item under Randwick LEP 2012. The Heritage NSW database listing identifies its significance as follows:

The church is one of a number of mission churches originally administered by St Nicholas’ Anglican Church, Coogee. It is also one of the many memorials erected in the aftermath of the First World War.

#### **Background**

PL/76/2021 proposed alterations and additions to the existing buildings on the site including the church and the adjacent hall, comprising enlargement of the existing entry to the church hall and a new first floor.

#### **Proposal**

The current application similarly proposes alterations and additions to the existing buildings on the site including the church and the adjacent hall, providing a link between the church and hall, and enlarging the existing entry to the church hall from Varna Street. The ground floor of the church hall is to comprise entry lobby, kitchen and a ramp connection to the church. The first floor is to comprise meeting room and amenities. The ground floor, first floor and existing crypt/basement area will be linked by a new stair and lift.

#### **Submission**

The proposal has been accompanied by a Heritage Impact Statement prepared by NBRS. The HIS concludes that:

The retention of the original church, its original form, and many of its original external and internal features, supports the protection of historically and aesthetically significant fabric which contributes to an understanding of the significance of the site. New additions will be clearly contemporary and identifiably new, to ensure the original features of the church, remain legible. Alterations and additions to the site have ensured that views to and from the northern and southern facades of the church, as well as the northwest radiating chapel, are retained, to ensure the overall form and significant external features of the church continue to be visible from the public domain and appreciated.

Whilst the works involve the removal of original and early significant fabric, this has been minimised as much as possible, and are necessary changes in order to ensure the ongoing use of the place. Overall, the original form of the church will be retained, as it contributes to an understanding of the overall heritage item.

In relation to impact of proposed changes on original internal and external building fabric including the western wall and roof of the church building, the HIS argues that the works are required to meet current fire safety requirements, and that while some original or early significant fabric will be affected, that new work will read as later changes as compared to original fabric and features and will not impact on the aesthetically significant northern and southern facades of the church :

In relation to the new building, the HIS argues that connection points between the new hall the existing church have been minimised as much as possible, and that the building envelope has been designed to ensure existing views of the church are retained. The HIS considers that the contemporary materials and detailing ensure that the proposed extension is identifiably new and that the colour palette of the new hall will reference the colours found on the existing church.

The HIS recommends a number of mitigative measures relating to fixings, reversibility, door salvage and retaining evidence of original layout.

### **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.

Clause 10.5(4) of Randwick LEP 2012 allows Council to require the preparation of a heritage management document that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item.

The Heritage section of Randwick Development Control Plan 2013 provided Objectives and Controls in relation to heritage properties. In relation to Design and Character, clause 2.2 of the DCP includes an Objective that development must demonstrate how it respects the heritage values of the heritage item or the heritage conservation area. The DCP also 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 the existing buildings. Another Control requires that additions to heritage items must not contain any major or prominent design elements which compete with the architectural features or detailing of the existing building. In relation to Detailing, clause 2.5 of the DCP includes a Control that original doors, windows, original sunhoods, awnings, gable detailing and other decorative elements to principal elevations be retained and repaired. Original leadlight and coloured glass panes should be retained.

### **Comments**

The church building at no.26 Arden Street, is located on the corner of Varna Street. The church building comprises a central higher nave, with a lower gabled roof at the eastern end comprising the chancel, and a lower parapeted hipped roof at the western end comprising a radiating chapel. The church hall is located to the west of the church at no. 69 Varna Street and is not linked to it. The church hall comprises a single storey hipped roofed section, together with a single storey flat roofed section which includes the entry from Varna Street. Brick parapet walls screen the roof forms of the hall and entry. Council's electronic application records include a building application for a brick cottage on the site from 1922 and a building application for a parish hall from 1961.

### **Changes to existing church building**

Proposed internal and external changes include the following:

- New stairs and fire egress door the western entry porch
- New opening to provide a ramped link between the church and the church hall including removal of existing wc.
- Replacement of a number of existing doors and windows at the western end of the church with new fire-rated doors and windows.

- Fire upgrading to existing openings to the south elevation including mesh panels and drenchers.
- Brick infill to existing openings to the west elevation at basement level.

#### *Changes to western entry porch*

The proposal will retain the existing brick arched openings to the porch and the entry but will remove the existing timber entry doors and provide a new glazed door set back from the arched porch opening. The changes are apparently required to meet current fire safety requirements, and will not be prominent in the main north elevation to Varna Street. Drawings indicate frameless glass door with glass sidelight panels and highlight panels which will be legible as a contemporary change. Consent conditions should be included requiring that the new glazed door be installed to minimise impact on existing brick wall surfaces and timber boarded ceilings, and that further information be provided in relation to proposed changes to existing floor finishes which include coloured concrete and terracotta tiles. A consent condition should be included in requiring salvage of internal and external doors, as recommended by the HIS.

The proposal will retain existing stone dwarf walls but will partially remove and replace existing concrete stairs with a new stair and extended landing, with the edge of the extended landing concealed by new planter boxes to either side of the new stair. The changes are apparently required to meet current fire safety requirements, and will not impact on important elements of the western entry porch. It is noted that the eastern and western entry porches each have different treatments in terms of detailing in plan and elevation. Consent conditions should be included requiring that new landings and stairs be carefully constructed to avoid impact on the existing sandstone base to the church building and the stone dwarf walls.

#### *New opening between church and church hall*

The proposal will remove an existing arched opening between the central lobby and the entrances to the meeting room and office, as well as two walls enclosing the wc, and will block an existing opening between the meeting room and the wc, in order to provide the new ramped link. The wc comprises a secondary space within the building, and is possibly a later installation. The changes are required to meet current access requirements. A consent condition should be included requiring archival recording of the existing layout including the existing arched opening which is to be removed.

#### *Internal changes to western end of church*

The proposal will replace the existing timber doors between the central lobby and the church with new acoustic fire rated doors, will provide a new fire rated window between the crying room and the church within the existing arched opening, and will provide a new door to the crying room. The changes are apparently required to meet current fire safety requirements, and will retain the existing brick arched openings between the church and the central lobby and the crying room. Drawings indicate a lightweight door and side panel which will be legible as a contemporary change. It is unclear whether the existing door to the church is original, but a consent condition should be included in requiring salvage of internal and external doors, as recommended by the HIS.

#### *External changes to western end of church*

The proposal will provide safety mesh to the existing crying room window, provide drenchers to the meeting room window and will block three existing openings within the stone base of the building at basement level adjacent to the new stair and lift. The changes at ground floor level are required to meet current fire safety requirements, will be legible as a contemporary change, and will not impact on the main north elevation to Varna Street. The changes at basement level will be legible as a contemporary change.

#### **Demolition and changes to the existing hall**

It is proposed to demolish the flat roofed section of the church hall and part of the hipped roof section adjacent to the church building. It appears that the existing church hall dates from 1961, and there are no heritage objections to the proposed demolition and associated changes.

#### **Proposed two storey addition**

Heritage comments on the pre-lodgement proposed advised that the form and massing of the proposed addition should be sensitively and carefully designed to ensure that the new work does not visually dominate, compete with or conceal the original form and massing of the church building.



The hipped roof section of the church hall is separated from the rear wall of the church by around 1.2m while the flat roofed section of the church hall is separated from the rear of the church by around 2.5m. The new two storey element is to abut the rear wall of the church, in order to provide the required link between the church and the hall. The existing stone external stair which provides access to the crypt is to be replaced by a new internal stair and lift within the two storey entry. The existing single storey entry to the church hall which is lower than the eaves height of the western end of the church, will be replaced by a two storey entry which will be around 3m higher than the existing eaves. The existing single storey entry element has a similar setback from Varna Street as the western end of the church, while the proposed two storey entry element is to be set back around 1.7m from the building line of the western end of the church.

Views towards the east (Arden Street) elevation of the church building from the north and south will not be affected by the proposal. Views towards the north (Varna Street) elevation of the church building from the east will not be affected, with the two storey addition appearing as a backdrop to the church. In relation to views towards the church's north elevation from the west, the proposal will retain views of the gabled wall to the church nave, but will impact on views of the parapeted hipped roof of the radiating chapel at the western end of the church. Impact on this view would be difficult to avoid with any two storey structure. The new internal stair however provides a glazed separation between the existing church and the new entry. The higher roofs of the clerestory glazing over the stair, and over the lift and unisex toilet somewhat complicate the form of the addition but are set back from the Varna Street elevation and the radiating chapel.

The Varna Street elevation is also complicated by the proposed projecting skillion roof (minimal 3 degree pitch), as well as various horizontal and vertical weather and sun protection projections at ground and first floor level. While a parapeted roof form would simplify the form of the addition, overall height would be increased. It is recommended that the overhang of the skillion roof be minimised on the north, west and south elevations and on the east elevation where there are no windows below, in order to minimise the prominence and simplify the form of the skillion roof. An appropriate consent condition should be included. At ground floor level, horizontal projecting roofs are provide weather protection to the main entry doors from Varna Street and a ramped entry on the west elevation. At first floor level, horizontal and vertical projections are provide sun protection to the north facing windows. The materials and finishes of these projections contrast with those of the adjacent walls.

The External Finishes Schedule which has been provided, indicates fibre cement wall cladding comprising rectangular panels (approx. 1m x .075m) in Dulux McGinley with black joints, and mini-orb steel cladding (Colorbond Gully) between window head and underside of roof. The HIS asserts that the colour palette of the new hall will reference the colours found on the existing church, to ensure the new hall does not overpower the reading of the existing church, e.g.- use of a faux-timber panel awning lining of a similar colour hue to the original church brickwork. The existing face brickwork to the church is in mid/dark brown and there are concerns that the proposed materials and finishes which range from white window frames, to a light toned paint finish with contrasting black joints to the wall panels (which make up the majority of the wall surface), to mid toned cladding to the upper part of the walls to dark coloured weather and sun protection projections will not be recessive in relation to original fabric and may dominate and compete with the original church building. It is recommended that an amended schedule of materials and finishes be submitted.

## 2.2. Development Engineer

An application has been received for alterations and additions to the existing church hall and church building (the proposal) at St Luke's Anglican Church at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by MCA Architects dated 321/07/2022;
- Statement of Environmental Effects by Ethos Urban dated 9<sup>th</sup> August 2022
- Traffic and parking Assessment by JN Engineering dated 2/08/2022
- Flood Impact Assessment Report by Donovans and Associates

## GENERAL COMMENTS

Previously raised issues in regards to the flooding have been only been partially addressed however it is considered the remaining outstanding issues can be addressed by condition and are detailed in this report.

No further objections are raised for the development subject to comments and conditions provided in this report.

## FLOODING COMMENTS

The site lies adjacent to a low point in Varna Street and also contains a overland flow path with the Council commissioned Clovelly Flood Study predicting the site will be subject to flooding during major storm events.

A flood report was issued in August last year with a local flood level at the front of the site being specified as RL 47.57 AHD for the 1% AEP Flood.

The flood report is only valid for 6 months and the flood levels have since been revised with flood levels now expected to top RL 48.09 AHD as depicted at right.

Due to potential concerns that flow paths may be blocked and that floor levels may need to be raised the applicant was requested to provide a pre & post development flood study demonstrating that the proposed development can be supported on flooding grounds. Council provided the engaged engineer with up to date flood data to assist in preparation of the study in March 2023.



Development Engineering makes the following comments in relation to the flood study

- Council's Drainage Engineer is generally satisfied with the methodology and assumptions used and accepts the conclusions of the study.
- The flood level specified in the study for the 1% AEP model at the front of the site is from the old flood report and is not compatible with the new flood data provided for preparation of the flood study however the study has not identified this inconsistency and so fails to recognise that the proposed floor level (being RL 47.83) is below the revised 1% AEP flood level of RL 48.09 AHD (as provided by the Drainage Engineer)

Part B8 of the DCP specifies non-habitable floor must be provided at or be suitably protected from the level of the 1% AEP flood being The submitted plans therefore do not demonstrate compliance with this requirement. Raising the floor level by the required 260mm would however conflict with the need to provide disability ramp access as well as now being unable to match the level of the existing hall at the rear.

It should be noted that the flood level really only impacts the front of the building since ground levels fall away rapidly to the south as do the flood levels. It is therefore considered this conflict can be addressed by simply protecting the Varna Street entrance while the side disability entrance does not need protection since the flood level is much lower at this location.

The following is therefore recommended to protect the development from flooding.

- Provide a raised landing at the top of the front steps at RL 48.09 which will effectively protect the new floor level up to this level. The front of the building must also be waterproofed up to RL 48.09. AHD (This has been conditioned).
- The new building shall be waterproofed up to RL 48.09 AHD on the Varna Street Frontage and for a minimum 3m from Varna Street along the eastern and western elevations

The Flood Impact Assessment report Flood Impact Assessment Report by Donovans and Associates also makes the following recommendations (detailed in Appendix 2 of the report) to minimise any potential increases in flood levels up-stream of the development site

- a) An allowance for a 100mm cavity below the podium slab from the northern and western side as highlighted in Appendix 2 The podium is to be suspended on piers in accordance with a Structural Engineers design.
- b) The walkway is to be constructed of pavers on raised platforms. Flood Storage will be allowed for below the pavers within the raised platforms as per Appendix 2
- c) Reduce the finished floor level of the walkway by 100mm as per Appendix 2

**These recommendations have been conditioned in this report and shall be indicated on plans submitted for the construction certificate.**

### **PARKING COMMENTS**

The following parking rates, as detailed in Table 1 Part B7 of Council's DCP have been considered in this assessment.

- Places of Public Worship – 1 space per 20m<sup>2</sup>
- Business and office premises in residential zones – 1 space per 100m<sup>2</sup> GFA

#### Current Situation

There is no off-street parking currently provided on the site, hence the existing church and adjacent hall are experiencing significant parking shortfalls of up to a total of 18 spaces when adopting the DCP parking rates. This has lead to a relatively high demand for on-street parking in the locality during events at the church and church hall.

#### Proposed Development

The proposed building will generally be ancillary to the existing uses on the site with only the new offices on the first floor (with a GFA of approximately 80m<sup>2</sup>) generating additional parking demand amounting to about 0.8 spaces when adopting the DCP parking rates. This is a relatively minor increase with minimal impacts and would not warrant refusal of the application.

It is not clear however if the new conference room on the first floor will operate independently of the church and church hall (i.e. will it host meetings not related to simultaneous events related to the church and church hall). This has the potential to significantly increase traffic and parking impacts above existing levels if simultaneous independent events are occurring.

This can be addressed by conditioning that any plan of management include a clause that avoid any simultaneous independent events occurring within the conference rooms and adjacent hall/church. A suitable condition has been included in this report.

### **Drainage Comments**

Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity (preferably without the use of a charged system).

#### **Undergrounding of power lines to site**

At the ordinary Council meeting on the 27<sup>th</sup> May 2014 it was resolved that;

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

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

### **Landscape Comments**

There are no existing trees, covered by Part B5 (Preservation of Trees and Vegetation) in Council's DCP 2013, that will be affected by this proposal.

**Should the application be approved the following conditions shall apply:**

### **2.3. Environmental Health**

*PKA Acoustics have provided an acoustic report ID: 12115 dated 27 July 2022 with the recommendations detailed below:*

*7.0 RECOMMENDATIONS Following our noise assessment and calculations, the following recommendations are presented to ensure acoustic compliance with relevant noise criteria.*

#### *Mechanical Noise*

- 1. Mechanical equipment must not operate beyond 10 pm in the evening a.*
- 2. Should equipment be required to operate beyond this time, a noise barrier must be erected as per Section 6.2 of this report. 2. Mechanical equipment must be fitted with a night-mode control module and time scheduled to engage during the evening (6 pm to 10 pm).*

#### *Operational Noise*

- 3. Any amplified music within the foyer should not exceed 80 dB(A).*
- 4. Any doors facing western residential receivers should remain closed at all times when not in operation.*
- 5. Main entry doors (facing Varna Street) may remain open during daytime providing amplified noise levels within the foyer do not exceed 80 dB(A).*
- 6. It is recommended that the church establish a noise management plan to ensure that sensitive receivers are not adversely impacted by operating noise levels of the proposed building. A noise management plan could include the following: a. Protocol to handle potential noise complaints regarding patron noise b. Encouragement of patrons to be mindful of noise impacts to neighbouring receivers (particularly when leaving late into the evening or early in the morning) c. Entry doors fitted with auto-close mechanisms to ensure that doors are closed when not in operation during the evening period.*
- 7. Where operations of the foyer or first floor of the proposed building is to continue beyond evening into the night-time period (after 10pm), there should be no live amplified music and all doors must remain closed when not in operation. Use of these areas may include small gatherings or youth groups providing the nature of the usage is not intended for musical performance or similar events. This does not assess the usage of rooms other than the proposed new foyer and first floor rooms.*

*Based on the information received the following conditions are recommended: - Refer to conditions of consent where all recommended conditions have been imposed.*

### **2.4. Building**

*The report requires additional information that could be provided as a condition of development consent.*

*It is recommended that the said report recommendations outlined be adopted as a condition of development consent with details of the certification provided to the engaged Principal Certifier. I have read the performance solution report which has been also been provided. As such, the performance solution report which will also need to be incorporated into the development consent and construction certificate application with a validation report provided to the Principal Certifier.*

*I have also read the access report which has been also been provided. As such, the access report which will also need to be incorporated into the development consent and construction certificate application with a validation report provided to the Principal Certifier.*

*And, any proposed variations to the recommendations and requirements in the subject reports shall be submitted to and approved by the Director City Planning, prior to approval of the construction certificate.*

*The conditions could read like this -*

*The works are to be carried out in compliance with the 'BCA Assessment Report dated 8 December 2021' inclusive of all recommendation and required information prepared by MBC Group, inclusive of required performance solution report, prepared by AED Group dated 11 July 2022 (Reference No. F3239 PBDB Rev 02). Details of compliance is to be provided to the Principal Certifier's satisfaction.*

*The applicant must comply with the requirements of the BIO-BUILDING DESIGN report (Access and Mobility report) received on 29th July 2022 for this Development consent No. 417/2022 to the satisfaction of the Principal Certifier.*

D33/23



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

### 1.0 Introduction

This clause 4.6 variation request has been prepared by Ethos Urban on behalf of St Luke's Anglican Church, Clovelly. It is submitted to Randwick City Council (Council) in support of a development application (DA) for alterations and additions to an existing place of public worship at 26 Arden Street and 69 Varna Street, Clovelly (the site).

Clause 4.6 of the *Randwick Local Environmental Plan 2013* (RLEP 2013) enables Council to grant consent for development even though the development contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

This clause 4.6 variation request relates to the development standard for floor space ratio (FSR) under clause 4.4 of the RLEP 2013 and should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Ethos Urban dated 29 July 2022.

This clause 4.6 variation request demonstrates that compliance with the FSR development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravention of the standard.

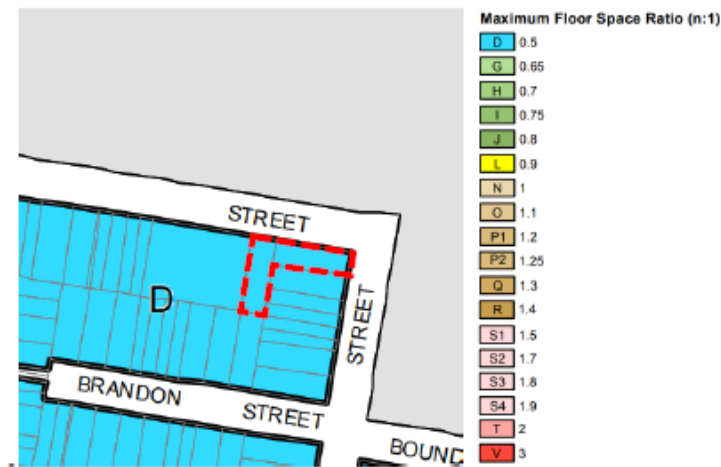
This clause 4.6 variation request demonstrates that, notwithstanding the non-compliance with the FSR development standard, the proposed development:

- Achieves the objectives of clause 4.4 of the RLEP 2013 by being:
  - of a size and scale which is compatible with the desired future character of the locality, located in a predominantly residential area;
  - of a design which is well articulated and respond to environmental and energy needs;
  - compatible with the scale and character of the St Lukes church building on the site; and
  - does not adversely impact on the amenity of adjoining and neighbouring land, particularly in terms of overshadowing;
- Should not be required to comply with an FSR that mirrors the surrounding residential zoned land and reflects the type of FSR for that specific use. Instead, the unique and historic use of the site as a Place of Public Worship necessitates different needs and expectations for the density of development. This is reflected by the existing development on the site, which already significantly exceeds the FSR by 68%. The proposed addition of 36m<sup>2</sup> or 0.03:1 is a very minor addition above that existing variation. The existing use and development on the site therefore provide specific environmental planning grounds that justify contravening the development standard in this instance.
- Is in the public interest because it is consistent with the objectives of both the development standard and the R2 Low Density Residential Zone and maintains the existing place of public worship land use which is permissible with consent on the site. The proposal seeks to modernise and improve the functionality and useability of the church buildings in line with contemporary church needs.

Therefore, the consent authority can be satisfied that there is sufficient justification for the variation to the FSR development standard as proposed in accordance with the flexibility allowed under Clause 4.6 of the RLEP 2013.

### 2.2 Relevant Development Standard

This clause 4.6 variation request seeks to justify a proposed contravention of the FSR development standard set out in the RLEP 2013. Under clause 4.4 of the RLEP 2013, the site is mapped with a FSR standard of 0.5:1 as shown on the Floor Space Ratio Map (refer to **Figure 1**).



**Figure 1** Floor Space Ratio Map  
Source: City of Randwick, Ethos Urban

### 2.3 Variation Sought

The FSR development standard established for the site under the RLEP 2013 is 0.5:1m.

The site has an area of 922m<sup>2</sup> and the existing total GFA on the site is 777m<sup>2</sup> which results in an FSR of 0.85:1, or a variation of 68%. The proposal seeks an increase in GFA of 46m<sup>2</sup>, to 823m<sup>2</sup>, which results in an FSR of 0.89:1 which varies the FSR standard by 0.39:1, or 78%.

This equates in a 0.04:1 increase in FSR or a 8% increase above the existing non-compliant FSR and largely results from the first floor addition and other reclassifications of floor area on the ground and basement floors.

### 3.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of the RLEP 2013 provides that:

#### 4.6 Exceptions to development standards

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

Further, clause 4.6(4)(a) of the RLEP 2013 provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Secretary has been obtained.*

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court in:

1. *Wehbe v Pittwater Council* [2007] NSW LEC 827; and
2. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009.
3. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (Initial Action).
4. *Al Maha Pty Ltd v HuaJun Investments Pty Ltd* [2018] NSWCA 245 (Al Maha).

The relevant matters contained in clause 4.6 of the RLEP 2013, with respect to the FSR development standard, are each addressed below, including with regard to these decisions.

#### 3.1 Role of the consent authority

The role of the consent authority in considering this request for a clause 4.6 variation has been recently explained by the NSW Court of Appeal in *Initial Action* and in *Al Maha* to require that the consent authority needs to be satisfied in relation to two matters:

- That the applicant's request has adequately addressed the matters in clause 4.6(4)(a)(i).
- That the proposed development will be in the public interest because of its consistency with the objectives of the development standard and the zone objectives.

The Council is required to form these two opinions first before it considers the merits of the DA and it can only consider the merits of the DA if it forms the required satisfaction in relation to the matters. In particular, the Council needs to be satisfied that there are proper planning grounds to grant consent and that the contravention of the standard is justified.

This report provides the basis for the consent authority to reach this level of satisfaction.

The relevant matters contained in clause 4.6 of the RLEP 2013, with respect to the FSR development standard, are each addressed below, including with regard to the above decisions.

### 3.2 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In *Wehbe*, Preston J of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. However, it was not suggested that the types of ways were a closed class.

While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), the analysis can be of assistance to variations made under clause 4.6 where subclause 4.6(3)(a) uses the same language as clause 6 of SEPP 1 (see *Four2Five* at [61] and [62]).

As the language used in subclause 4.6(3)(a) of the RLEP 2013 is the same as the language used in clause 6 of SEPP 1, the principles contained in *Wehbe* are of assistance to this clause 4.6 variation request.

The five methods outlined in *Wehbe* include:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**).
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**).
- The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Method**).
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Method**).

Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary is the First Method.

#### 3.2.1 The underlying objectives or purposes of the development standard

The objectives of the development standard contained in clause 4.4 of the RLEP 2013 are:

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

#### 3.2.2 The objectives of the standard are achieved notwithstanding non-compliance with the standard

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

##### Existing context

The proposed built form is appropriate for the site and is compatible with the characteristics of the surrounding context. The immediate locality is predominately residential in character but contains a variety of buildings forms, scales and uses.

Development immediately adjoining the site ranges from 1 to 3 storeys in height. The townhouse development at 61-67 Varna Street presents as a two storey development to the street front and increases to three storeys to the rear as the land falls away to the south. Furthermore, 28 Arden Street to the south of the church building is a detached dwelling which is part 2, part 3 storeys in height. As semi-detached dwellings and single dwellings on narrow lots is the



predominant building typology in the area, dwellings are generally built to side boundaries with no or little building separation between allotments as shown in **Figure 2**.



**Figure 2** Site Aerial

Source: Nearmap & Ethos Urban

#### Proposed development

The height, bulk and scale of the proposal is similar to multi dwelling housing residential development to the west. The proposal is compliant with the height of buildings control for the site and visually transitions the scale of built form on the church site down to two storey residential development to the west, thus being compatible with the scale of development on the southern street frontage of Varna Street. The proposal appears as a two storey development with narrow setbacks, which is consistent with the predominant built form character of Varna Street.

The proposed addition maintains the existing building line of the existing building, which is compatible with the front setback of surrounding development and matches the setback of the existing church building. The church building is the most prominent development on the street and the proposed addition maintains a bulk, scale and materiality which reflects this.

The proposal has a positive built form relationship with the heritage listed church building to the east being of a comparable massing to the church whilst maintaining a similar height to the lower roof of the church entry on Varna Street. This ensures that the proposal acknowledges the prominence of the church building on the site and the proposed design is responsive to the heritage context of the site.

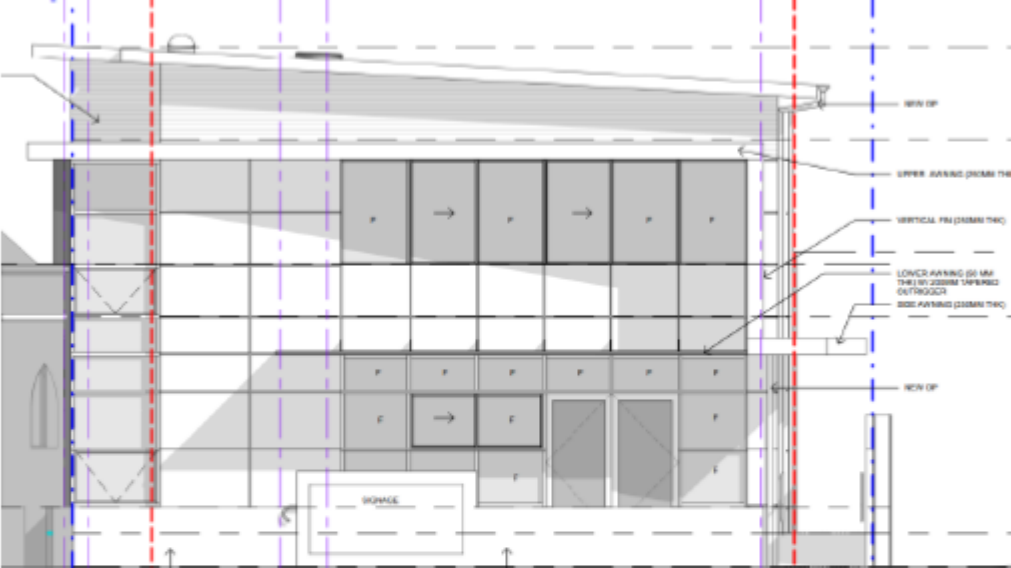
The proposal maintains the existing front and side setbacks to Varna Street established by the existing building. Neighbouring development at 61-67 Varna Street consists of multi dwelling housing with narrow setbacks, an east-west orientation and a height of two storeys at the street transitioning to three storeys to the rear. As such, this presents as a more intensive form of residential development to the street when compared to neighbouring dwelling houses to its north and west. With the site of the proposed development located between the existing church building and this adjoining site, the proposed scale of built form is compatible with its surrounds.

As such, the proposal acknowledges and is compatible with the siting and scale of existing development, with particular regard to the adjoining residential development and the heritage church building on the site.



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

The proposed addition is of a contemporary design which complements the character of the church hall to the rear. It incorporates modern materials, such as cement and metal and metal louvres, frames and roofing which distinguishes the proposal from surrounding built form. Significant glazing is proposed to the front northern elevation which activates the street front, articulates the front façade and provides benefits in relation to thermal comfort from its positive orientation towards the sun. These glazed elements also reduce the appearance of visual bulk to the street and appropriately provides a scale of development similar to the neighbouring church building and residential development to the west of the site as shown in **Figure 3**.



**Figure 3 Front elevation**

Source: MCA

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

The St Luke's Anglican Church building is located on the site and is identified as an item of local heritage significance in item 105 in Schedule 5 of the RLEP 2012. The church building was constructed in 1923 and has been used by the church for the last 99 years. The church building is a lofty single storey building constructed of brick with an exposed stone base. The building is an intact example of the Inter-War Gothic style and includes brick buttresses to the northern façade which are reminiscent of this style.

The proposed addition is sympathetic to the scale of the existing church on the site, as well as the existing dwellings on both Arden and Varna Streets. The design of the proposal provides a built form which is of a lower height than the church and acknowledges its heritage values. A contemporary flat roof form has been chosen for the new hall as it allows the new building to physically sit as low as possible when viewed from the street.

Furthermore, the proposed addition retains the existing building line and has been setback from Varna Street behind the line of the northern façade of the church. In particular, the new building has been designed to be setback behind the line of the radiating chapel towards the northwest corner of the church, to ensure it remains a prominent feature of the streetscape. The combination of the low roof design and building line has the effect of retaining views of the church when viewed from the public domain.

The materials and finishes selected are compatible with the character of the heritage listed church. Whilst the proposal is of a contemporary design, it has an articulated façade of modern building materials including cladding, concrete

render and glazing. The front door of the building is open to the public domain which serves to articulate the ground floor of the building.

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

The proposal does not present significant adverse impacts to the amenity of surrounding residential land. The proposal adopts a 1.2m side setback to the west, maintains a relatively flat roof and is 2 storeys in height, which is comparable to the height and scale of other residential development in the locality. The facades presenting to the public and private domain are also well articulated with contemporary materials and finishes such as concrete cladding and substantial amounts of glazing. This has the effect of articulating and modulating the façade. Therefore, the proposal does not present adverse impacts to neighbouring development in terms of visual bulk.

As aforementioned, the proposed addition is set further back from the street than the existing building line of the church which retains views along Varna Street to the church building. The proposal provides only one window to the western elevation which does not directly overlook private open space. This limited glazing to the side boundary limits privacy impacts to the neighbouring residential property at 61-67 Varna Street. The proposal results in acceptable shadowing considering the orientation of the site, the nature of the proposed addition and the surrounding context. The shadow analysis prepared by MCA confirms that neighbouring properties at 61-67 Varna Street and 28 Arden Street all comfortably receive at least three hours of solar access to living and outdoor spaces during the winter solstice. The design development for the proposal was significant to achieve this desired outcome. Additional analysis has also been carried out to confirm the amount and duration of solar access to 28 Arden Street to the south is acceptable.

Part 5.1 of the Low Density Residential DCP requires that the north facing windows of living areas, private open space areas and roofing above 6m above existing ground level receive at least three hours of solar access during the winter solstice.

The Architectural Plans at **Appendix A** provide shadow diagrams in plan and elevation which demonstrate the achievement of this DCP control.

In relation to 61-67 Varna Street, the shadow diagrams demonstrate that the proposed addition only overshadows this neighbouring property between 8am-9am. The proposal does not overshadow this property at other times of day, with existing shadows from existing built form impacting the property.

In relation to 28 Arden Street, the shadow diagrams demonstrate that shadows cast by the proposed addition affect the property from 12pm during the winter solstice. The additional shadows cast by the proposal in **Figure 9** are summarised as follows:

- 12 and 1pm: minor additional shadows to the western portion of the private open space area, containing the pool
- 2pm: larger area of shadow over the pool, noting it is unlikely to be in use during midwinter;
- 3pm: shadows to the western and northern windows overlooking the rear private open space area on the ground floor; and
- 4pm: shadows to the west facing windows on the first floor.

The proposal retains solar access to the roof structure during all times of day and does not result in additional overshadowing to north facing windows or the private open space areas during the morning and early afternoon. The private open space area in particular enjoys solar access during the late morning and solar access is achieved until after 1pm.

It is noted that one northern window is affected to the rear of the ground floor. This window does not currently achieve 3 hours of direct sunlight due to the positioning of the existing church building, however the western windows to this room achieve solar access until 2pm.

Given this and the siting of the proposal to the north away from this property boundary, the design of the proposal has been well considered and provides a reasonable level of solar access to this neighbouring site.

As demonstrated from the shadow diagrams, the overshadowing impacts of the proposal are limited and existing residential properties to the west and south of the site continue to enjoy significant amounts of solar access during the

winter solstice. Given that much of the shadowing to this property results from the existing church building and hall and not from the proposed addition, the shadow impacts arising from the proposal are acceptable.



EXISTING ELEVATION - SHADOW DIAGRAM 1 PM



EXISTING ELEVATION - SHADOW DIAGRAM 2 PM



PROPOSED ELEVATION - SHADOW DIAGRAM 1 PM



PROPOSED ELEVATION - SHADOW DIAGRAM 2 PM



EXISTING ELEVATION - SHADOW DIAGRAM 3 PM



EXISTING ELEVATION - SHADOW DIAGRAM 4 PM



PROPOSED ELEVATION - SHADOW DIAGRAM 3 PM



PROPOSED ELEVATION - SHADOW DIAGRAM 4 PM

**Figure 4**    *Overshadowing Studies*  
Source: MCA

### 3.2.3 Conclusion on clause 4.6(3)(a)

The above section has demonstrated that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case. The objectives of the FSR development standard, set out in clause 4.3 of the RLEP 2013, have been achieved by the proposed development notwithstanding a minor variation as the proposal is:

- of a size and scale which is compatible with the desired future character of the locality, located in a predominantly residential area;
- of a design which is well articulated and respond to environmental and energy needs;
- compatible with the scale and character of the St Lukes church building on the site; and
- does not adversely impact on the amenity of adjoining and neighbouring land, particularly in terms of overshadowing.

### 3.3 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

Clause 4.6(3)(b) of the RLEP 2013 requires the contravention of the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify the contravention. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action* at [24]).

In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site at [60]. In this instance the relevant aspect of the development are part of the fourth floor and roof structures that result in the exceedance of the development standard.

There are sufficient environmental planning grounds to justify contravention of the FSR development standard in this specific instance, as described below.

#### 3.3.1 An Existing Place of Public Worship

The FSR development standard mirrors the surrounding residential zoned land and reflects the type of FSR for that specific use. The unique and historic use of the site as a Place of Public Worship necessitates different needs and expectations for the density of development. This is reflected by the existing development on the site, which already significantly exceeds the FSR by 68%. The proposed addition of 46m<sup>2</sup> or 0.04:1 is a very minor addition above that existing variation. The existing use and development on the site therefore provide specific environmental planning grounds that justify contravening the development standard in this instance.

As discussed in the SEE, the proposal is necessary to ensure the Church can continue to provide essential social infrastructure for the community, including equitable access.

#### 3.3.2 Environmental Sustainability

The proposal involves alterations and additions to the existing church hall on the site, which requires the demolition of the existing foyer and the retention of the southern portion of the building including the hall. This approach results in greater environmental benefits through the reduction in the generation of waste material when compared to a complete redevelopment of the site. As a result, there is a restriction on the proposal on its ability to deliver its outcomes in terms of providing accessible entry facilities as well as contemporary office space under the FSR limit. Whilst the proposal seeks environmentally sustainable outcomes through the retention of portions of the existing building, this has implications on the design of the proposal partly resulting in the variation of the FSR standard.

#### 3.3.3 Consistency with Objects of the EP&A Act

In *Initial Action*, the Court stated that the phrase "environmental planning grounds" is not defined but would refer grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the Act. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, as set out in **Table 1** we consider the proposed development is broadly consistent with each object, notwithstanding the proposed variation of the FSR development standard.



Table 1 Assessment of consistency of the proposed development with the Objects of the EP&amp;A Act

Object	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal will promote the social welfare of the community by improving the church facilities provided by St Lukes Anglican Church. The church seeks to improve the functionality and useability of the church buildings in line with contemporary church needs, such as the importance of a lobby for after service gathering and meeting areas, child safe spaces and accessible and equitable access. The development will ensure the on-going use and care of the heritage listed building and enable the Church, which has met on the site since the 19th Century, to continue to play a key part in the Clovelly community into the future.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The proposal will promote the retention of the majority of the existing hall and reduces demolition and construction waste, thereby promoting ecologically sustainable development. Further, the site is oriented to the north and the proposal maximises glazing to this elevation to promote thermal comfort and reduce energy usage.
(c) to promote the orderly and economic use and development of land	The proposal promotes the orderly and economic use and development of land through the development of an existing place of public worship which will not unreasonably impact upon residential neighbours. This allows for the use of the site to provide for the contemporary needs of a Church that is aiming to strengthen relationships in its community, and with the wider community.
(d) to promote the delivery and maintenance of affordable housing	The proposal is not directly related to the delivery and maintenance of affordable housing.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The proposal will not have any impact on threatened species or ecological communities.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	No items or areas of built or cultural heritage will be negatively impacted by the proposal.  The proposed works to the heritage item are addition are overseen by St Lukes Anglican Church which seeks to respect, retain and manage the heritage significance of the church and its landholding. The proposed addition maintains the existing building line which reduces visual impacts of bulk and scale and retains existing views along Varna Street. Therefore, the sustainable management of heritage can continue in light of the proposal.
(g) to promote good design and amenity of the built environment	The proposal will promote good design and amenity of the built environment by exhibiting a contemporary and high-quality design which considers the residential characteristics of its surrounds the heritage value and significance of the site. This is demonstrated by the siting of the proposed addition in line with the existing building to ensure that the proposal is of a height and siting which respects and is sympathetic with the existing St Lukes Clovelly church building. <b>Section 3.2.2</b> of this variation request demonstrates that the proposal is compliant with the DCP objectives in relation to shadowing in providing and retaining sunlight to neighbouring private open space and living areas.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposed development, inclusive of the variation, can comply with the relevant provisions of the BCA and will promote the health and safety of occupants.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	This object is not relevant to this proposal, however, the proposal has adhered to the required planning processes for the site and scale of development.

Clause 4.6 Variation | St Luke's Anglican Church, Clovelly | 13



Object	Comment
(j) to provide increased opportunity for community participation in environmental planning and assessment	The proposed development will be publicly exhibited in accordance with the requirements of Council's Community Participation Plan.

### 3.3.4 Conclusion on clause 4.6(3)(b)

For the reasons above, there are sufficient environmental planning grounds to justify the contravention of the FSR development standard, as it promotes good design and amenity of the built environment.

## 3.4 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

In *Initial Action* at [27], it was held that it is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. The proposal is in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone.

### Consistency Caselaw

Consistency has been defined throughout caselaw including the following Land and Environment Court cases:

*Addenbrooke v Woollahra Municipal Council* [2008] NSWLEC 190

*Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21

*Raissis v Randwick City Council* [2019] NSWLEC 1040

*Abrams v Council of City of Sydney* [2018] NSWLEC 1648

*Kingsland Developments v Parramatta Council* [2018] NSWLEC 1241

*Dem Gillespies v Warringah Council* [2002] 124 LGRA 147

In these cases, consistency is considered to be different to that of 'achievement'. The term 'consistent' has been considered in a judgements of the Court in relation to zone objectives and has been interpreted to mean "compatible" or "capable of existing together in harmony" (*Dem Gillespies v Warringah Council* [2002] 124 LGRA 147; *Addenbrooke Pty Ltd v Woollahra Municipal Council* [2008] NSWLEC 190) or "not being antipathetic" (*Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21). Whichever interpretation is adopted the test of "consistency", is less onerous than that of "achievement".

### 3.4.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the FSR development standard, for the reasons discussed in **Section 3.2.2** of this report.

### 3.4.2 Consistency with objectives of the zone

The proposed development is consistent with the objectives of the R2 Low Density Residential Zone, as demonstrated below.

**Objective (a): To provide for the housing needs of the community within a low density residential environment.**

The proposal does not seek to change the existing approved use on the site as a place of public worship and does not preclude the development of neighbouring residential land for low density residential purposes.

**Objective (b): To enable other land uses that provide facilities or services to meet the day to day needs of residents.**

The proposal promotes the Church's vision of being a central hub of community engagement and life for the local community of Clovelly. The proposal seeks to improve the functionality and useability of the church buildings in line with contemporary church needs, such as the importance of a lobby for after service gathering and meeting areas,

child safe spaces and accessible and equitable access. The proposal enables the existing church to provide modern facilities and services to serve the community.

**Objective (c): To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.**

As described in **Section 3.2.2** above, the proposal recognises the existing characteristics of the surrounding streetscape and residential area of Clovelly. The height, bulk and scale of the proposal is similar to multi dwelling housing residential development to the west and visually transitions the scale of built form on the church site down to two storey residential development to the west, thus being compatible with the built form on Varna Street. The proposed addition maintains the existing building line of the existing building, which is compatible with the front setback of surrounding development and is sympathetic to the existing church building. The proposal also maintains the existing side setbacks to Varna Street established by the existing building. As such, the proposal appears as a two storey development with narrow setbacks, which is consistent with the predominant built form character of Varna Street.

The proposal has a positive built form relationship with the heritage listed church building to the east being of a comparable massing to the church whilst maintaining a similar height to the lower roof of the church entry on Varna Street. This ensures that the proposal acknowledges the prominence of the church building on the site and the proposed design is responsive to the heritage context of the site.

As such, the proposal acknowledges and is compatible with the siting and scale of existing development, with particular regard to the adjoining residential development and the heritage church building on the site.

**Objective (d): To protect the amenity of residents.**

As described in **Section 3.2.2** above, the amenity of neighbouring residents is protected and the proposal provides reasonable amenity impacts in relation to visual bulk, views, overshadowing and privacy.

**Objective (e): To encourage housing affordability.**

The proposal does not seek to change the existing approved use on the site as a place of public worship and does not preclude the development of neighbouring residential land for residential purposes to encourage housing affordability.

**Objective (f): To enable small-scale business uses in existing commercial buildings.**

The proposal does not preclude the development of nearby commercial uses to be used for small scale business uses.

### 3.4.3 Overall public interest

Therefore, the proposal is in the public interest as it is consistent with the objectives of the FSR development standard and the objectives of the R2 Low Density Residential zone.

## 3.5 Other Matters for Consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Director-General must consider the following matters:

- (5) In deciding whether to grant concurrence, the Secretary must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

These matters are addressed in detail below.

**3.5.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning**

The variation of the FSR development standard does not raise any matter of significance for State or regional planning. We do note, however, that the proposal is consistent with the most recent metropolitan plan for Sydney, A Plan for Growing Sydney in that it:

- modernise and improve the functionality and useability of the church buildings in line with contemporary church needs to serve the local community;
- will not negatively impact the heritage significance of the site. The proposed addition has been architecturally designed to be sympathetic and complementary to the heritage church building on the site;
- promotes ecologically sustainable development through the retention of part of the existing hall; and
- will contribute to the generation of jobs during both the construction and operational stages.

Furthermore, the variation of the FSR development standard does not result in any significant adverse impact on the surrounding residences and enables a more appropriate design response to the opportunities and constraints presented by the site.

**3.5.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard**

As outlined in **Section 3.3** above, there are sufficient environmental planning grounds to warrant contravention of the development standard and it is therefore considered to be in the public interest for the variation to be supported in this case. The proposal does not adversely impact built heritage significance and the proposal allows for the church to provide modern facilities, meet and provide for the needs of its community which is in the public interest.

**3.5.3 Clause 5.6(5)(c): Any other matters required to be taken into consideration by the Director-General before granting concurrence.**

There are no other matters required to be taken into consideration.

**Appendix 3: DCP Compliance Table****3.1 Section C1: Low Density Residential & Part F Miscellaneous Controls**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>5 Amenity</b>			
5.1 Solar Access	<p>Solar access to neighbouring development:</p> <p>iii) A portion of the north-facing living area windows of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June.</p> <p>iv) The private open space of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. The area covered by sunlight must be capable of supporting passive recreation activities.</p> <p>v) Existing 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. Where the neighbouring dwellings do not contain any solar panels, direct sunlight must be retained to the northern, eastern and/or western roof planes of neighbouring dwellings, which are at least 6m above ground level (existing), so that future solar panels capturing not less than 3 hours of sunlight between 8am and 4pm on 21 June may be installed.</p> <p>vi) Any variation from the above requirements will be subject to a merit assessment having regard to the following factors:</p> <ul style="list-style-type: none"> <li>- Degree of meeting the FSR, height, setbacks and site coverage controls.</li> <li>- Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>- Topography of the subject and adjoining allotments.</li> <li>- Location and level of the windows in question.</li> <li>- Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>	<p>In relation to 61-67 Varna Street, the shadow diagrams demonstrate that the proposed addition only overshadows this neighbouring property between 8am-9am. The proposal does not overshadow this property at other times of day, with existing shadows from existing built form impacting the property. The proposal only casts additional shadows to 28 Arden Street one north facing window to the rear of the site at 3pm. No other north facing windows are affected by the proposal. It is noted that this window does not currently achieve 3 hours of direct sunlight due to the positioning of the existing church building, however the western windows to this room achieve solar access until 2pm. Given this and the siting of the proposal to the north away from this property boundary, the design of the proposal has been well considered and provides a reasonable level of solar access to this neighbouring site. The private open space of 61-67 Varna Street is not affected by the proposal. The private open space area at 28 Arden Street enjoys solar access to the pool area during the late morning and solar access is achieved in the private</p>	Yes.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
		open space area until after 2pm. The proposal retains solar access to the roof structure during all times of day and does not result in additional overshadowing to north facing windows or the private open space areas during the morning and early afternoon.	
<b>Part F 2 Outdoor Advertising and Signage</b>			
2 General Design and Sighting	<ul style="list-style-type: none"> <li>i) Signage should recognise the legitimate needs for directional advice, business identification and promotion.</li> <li>ii) Signage must complement and be compatible with the development on which it is situated and with adjoining development.</li> <li>iii) Signage should not obscure architecturally decorative details or features of buildings or dominate building facades. It should be placed on the undecorated wall surfaces or designed sign panels provided.</li> <li>iv) Entire building facades and /or walls must not be painted or covered with cladding or other material to act as a large billboard type.</li> <li>v) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is required.</li> <li>vi) Signage shall be displayed in English but may include a translation in another language.</li> <li>vii) Signage erected or displayed on identified heritage buildings or within heritage conservation areas must not detract from the architectural character and heritage significance of such buildings or areas.</li> <li>viii) Outdoor advertising attached to vehicles or trailers which are parked for advertising purposes will not be permitted.</li> <li>ix) Signage must not be flashing or animated.</li> </ul> <p>Note: Flashing or animated signs include mechanical moving signs, moving LED signs, video/television screens, projected laser advertising and other flashing, intermittently illuminated</p>	The signage zone is of an appropriate size and scale relative to the proposed building and existing built form on Varna Street. One single signage zone is proposed and does not obscure or dominate the streetscape and associated features.	Refer to SEPP assessment.



D33/23

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	or sequenced lighting signs.		
3 Signage Based on Land Use Zones	i) Signage must not be illuminated and signage must relate to the use of the building or land. ii) Minimise signage along boundaries common with residential properties. iii) Business identification signs (including those for a home business) must not be more than 1.5sqm in area. iv) Proposals for signage on buildings operating as existing uses or business premises will be assessed against the controls relating to business zones.	The proposed signage is not illuminated, is not located on a common boundary to a residential property and, is not a business identification sign which is more than 1.5sqm in area and seeks to preserve the visual amenity and value of the existing streetscape and be sympathetic to the heritage listed church building.	Refer to SEPP assessment.

**Responsible officer:** Isobella Lucic, Senior Environmental Planning Officer

**File Reference:** DA/417/2022

## Development Consent Conditions (Commercial)



D33/23

<b>Folder / DA No:</b>	DA/417/2022
<b>Property:</b>	26 Arden Street, CLOVELLY NSW 2031
<b>Proposal:</b>	Alterations and additions to an existing church hall and church building (the proposal) at St Luke's Anglican Church.
<b>Recommendation:</b>	Approval

### Development Consent Conditions

#### GENERAL CONDITIONS

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

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning 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:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
Site Analysis Plan Rev P4 A-004	MCA Architects	21/07/2022	19/08/2022
Demolition Basement Floor Plan Rev P4 A-102	MCA Architects	21/07/2022	19/08/2022
Proposed Basement Floor Plan Rev P4 A-103	MCA Architects	21/07/2022	19/08/2022
Demolition Ground Floor Plan Rev P4 A-112	MCA Architects	21/07/2022	19/08/2022
Proposed Ground Floor Plan Rev P4 A-113	MCA Architects	21/07/2022	19/08/2022
Proposed First Floor Plan Rev P4 A-123	MCA Architects	21/07/2022	19/08/2022
Demolition Roof Plan Rev P4 A-132	MCA Architects	21/07/2022	19/08/2022
Proposed Roof Plan Rev P4 A-133	MCA Architects	21/07/2022	19/08/2022
Elevation North	MCA Architects	21/07/2022	17/03/2023

Rev P4 A-201			
Elevation South Rev P4 A-202	MCA Architects	21/07/2022	17/03/2023
Elevation East Rev P4 A-203	MCA Architects	21/07/2022	17/03/2023
Elevation West Rev P4 A-204	MCA Architects	21/07/2022	17/03/2023
Section Through Hall Rev P4 A-301	MCA Architects	21/07/2022	17/03/2023
Section Through Church A-302	MCA Architects	21/07/2022	17/03/2023

**Plan of Management**

2. The Plan of Management prepared by St.Luke's Anglican Church dated 15 March 2023 must be complied with and a copy kept on site at all times. Council must be provided with a copy of the complaints register annually, starting from 12 months from the date of this determination.

**Travel Plan**

3. The Plan of Management of the church hall and room shall include a Workplace Travel Plan which endeavours to minimise the parking and traffic generation of the proposed development. The plan may include but not be limited to aspects such as support for walking and cycling, car sharing, management of workplace parking, & incentives for public transport use and shall also include the following restriction;

There shall be no simultaneous independent events occurring at the church/church hall and the meeting/conference room on the first floor in order to minimise parking impacts within surrounding streets.

The Travel Plan shall be submitted to and approved by Council's Department of integrated Transport prior to the issuing of an Occupation Certificate.

**Heritage Requirements**

4.
  - a) Where additions are proposed, these should be fixed in such a way as not to damage significant fabric. The number of fixings should be limited as much as possible.
  - b) Where possible, additions should be designed in a reversible manner so as to facilitate their future removal without damage to adjacent, significant fabric.
  - c) The existing western entry door leaf and the western nave door leaf are to be carefully removed, labelled, protected and retained in a secure location on site for potential future reuse.
  - d) Where new openings into original or early significant walls are proposed, nib walls and bulkheads should be retained, to enable the ongoing interpretation of the original layout and configuration of the original spaces within the church.
  - e) The new glazed door to the western entry porch is to be installed to minimise impact on existing brick wall surfaces and timber boarded ceilings.
  - f) Further information is to be provided in relation to proposed changes to existing floor finishes including coloured concrete and terracotta tiles to the western entry porch and the western end of the church.

- g) New landings and stairs to the western entry porch are to be carefully constructed to avoid impact on the existing sandstone base to the church building and the stone dwarf walls.
- h) A 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. The archival recording is to relate particularly to areas of the building subject to proposed changes, including existing arched opening which is to be removed. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. One bound copy and one digital copy (DVD or USB) of the archival recording is to be submitted to Council for inclusion in the Local History Collection of Randwick City Library and for Council's own records incorporating the following:
  - a. 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;
  - b. Digital copies of the archival photographs in JPEG and TIFF formats.
- i) The overhang of the proposed skillion roof to the new church hall is to be minimised on the north, west and south elevations, and on the east elevation where there are no windows below, in order to minimise the prominence and simplify the form of the skillion roof. Amended drawings 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.
- j) The colours, materials and finishes of the external surfaces to the proposed addition, including wall surfaces and weather and sun protection projections are to be compatible with the mid/dark brown face brickwork of the existing heritage item. 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. This consent condition is required in order to ensure that the proposed addition will be recessive in relation to original fabric and will not dominate and compete with the original church building.

#### Signage

- 5. Details of the signage fronting Varna Street shall be submitted to and approved by Council's Manager Development Assessment prior to the issue of 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**

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

#### **External Colours, Materials & Finishes**

7. The colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application. Amendments required as a result of Condition 3 must be submitted to and approved by Council's Manager Development Assessment, prior to a construction certificate being issued for the development.

#### **Section 7.12 Development Contributions**

8. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$1,809,701.00 the following applicable monetary levy must be paid to Council: \$18,097.

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](http://www.randwick.nsw.gov.au).

#### **Long Service Levy Payments**

9. 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 \$250,000 or more, at the rate of 0.25% of the cost of the works.*

#### **Security Deposits**

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



for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17 of the *Environmental Planning and Assessment Act 1979*:

- \$1,500.00 - Damage Deposit

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

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

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

#### **Flood Protection measures**

11. Plans submitted for the construction certificate must demonstrate compliance with the following requirements to protect the development from flooding and minimize any increase in flood levels upstream of site.
- a) A raised landing (min 0.9m wide) at the top of the entrance stairs on Varna Street must be provided at RL 48.09 AHD being the determined level of the 1% AEP Flood at the front entrance.
  - b) The new building shall be waterproofed up to RL 48.09 AHD on the Varna Street Frontage and for minimum 3m from Varna Street along the eastern and western elevations.
  - c) The basement level shall be suitably tanked and waterproofed
  - d) An allowance for a 100mm cavity below the podium slab from the northern and western side as highlighted in Appendix 2 of the flood Impact Assessment report by Donovan and Associates dated 23rd March 2023. The podium is to be suspended on piers in accordance with a Structural Engineers design.
  - e) Comply with Option 2 **OR** 3 as detailed in the Conclusion of the Flood Impact Assessment report by Donovan and Associates dated 23rd March 2023

**A copy of the approved plans indicating the required amendments are to be forwarded to Council's Development Engineers.**

**Any enquires on this matter shall be directed to Council's Development Engineer on 9093-6881**

#### **Stormwater Drainage**

12. Surface water runoff 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;
- d) 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.

#### **Sydney Water Requirements**

13. 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.

#### **Noise Emissions**

14. Noise emissions from plant and equipment must satisfy the relevant noise criteria in the *Protection of the Environment Operations Act 1997* and Environment Protection Authority guidelines. Details of compliance with any building requirements in acoustic report prepared by PKA Acoustics dated 27/07/2022 section 6 shall be provided to the certifying authority prior to a Construction Certificate being issued.

#### **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 Report**

15. The works are to be carried out in compliance with the 'BCA Assessment Report dated 8 December 2021' inclusive of all recommendation and required information prepared by MBC Group, inclusive of required performance solution report, prepared by AED Group dated 11 July 2022 (Reference No. F3239 PBDB Rev 02). Details of compliance is to be provided to the Principal Certifier's satisfaction.

The applicant must comply with the requirements of the BIO-BUILDING DESIGN report (Access and Mobility report) received on 29th July 2022 for this Development consent No. 417/2022 to the satisfaction of the Principal Certifier.

**Building Code of Australia & Relevant Standards**

16. 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

17. Access, facilities and car parking for people with disabilities must be provided in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010, relevant Australian Standards and conditions of consent, to the satisfaction of the Registered Certifier for the development. Details of the required access, facilities and car parking for people with disabilities are to be included in the construction certificate for the development.

**Site stability, Excavation and Construction work**

18. A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:
- a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties.
  - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
  - c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.
  - d) Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work.
  - e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided

to the appointed Certifier for the development prior to issue of a relevant construction certificate.

#### 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.

#### Disposal of Hazardous Material

19. The following conditions must be complied with in relation to any works involving the demolition, removal, handling, storage or disposal of any hazardous materials (including asbestos):

- a) All work must be carried out in accordance with the following requirements (as applicable):

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

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

- b) A Demolition Work Plan must be prepared for the development in accordance with *Work Health and Safety Regulation 2017*, *SafeWork NSW Code of Practice for the safe removal of asbestos* and Australian Standard AS 2601 (2001), Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials (including asbestos)
- Method/s of demolition and removal of hazardous materials
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne hazardous materials
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in any Hazardous Materials Survey
- Date the demolition and removal of asbestos will commence

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

**Note** it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits.

- c) A Demolition Work Plan must be prepared for the development in accordance with *Work Health and Safety Regulation 2017*, SafeWork NSW Code of Practice for the safe removal of asbestos and Australian Standard AS 2601 (2001), Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials (including asbestos)
- Method/s of demolition and removal of hazardous materials
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne hazardous materials
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in any Hazardous Materials Survey
- Date the demolition and removal of asbestos will commence

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

**Note** it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits.

#### **Building Certification and Associated Requirements**

20. 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.



**Construction Site Management Plan**

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

- location and construction of protective site fencing 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.

**Sediment Control Plan**

22. 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**

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

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

- a) The *Construction Noise & Vibration Management Plan* must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority *Guidelines for Construction Noise* and *Assessing Vibration: A Technical Guideline* (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.
- b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.

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

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

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

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

**Public Liability**

24. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.

**Public Utilities**

25. 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.
26. 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.

**Removal of Hazardous Waste**

27. Hazardous or intractable wastes arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority, and with the provisions of:

- *Work Health and Safety Act 2011*;
- *Protection of the Environment Operations Act 1997 (NSW)*;

- NSW EPA Waste Classification Guidelines (2014);
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Randwick City Council Asbestos Policy.

The works must not cause any environmental pollution, public health incident or, result in an offence under the *Protection of the Environment Operations Act 1997* or *Work Health & Safety Act 2011* and Regulations.

#### 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".

#### Building & Demolition Work Requirements

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"> <li>• Monday to Friday - 7.00am to 5.00pm</li> <li>• Saturday - 8.00am to 5.00pm</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Excavations within rock, sawing of rock, use of jack-hammers, driven-type piling or the like	<ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 3.00pm (maximum)</li> <li>• As may be further limited in Noise &amp; Vibration Management Plan</li> <li>• Saturday - No work permitted</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises	<ul style="list-style-type: none"> <li>• Monday to Saturday - No time limits (subject to work not being audible in any residential dwelling or commercial/industrial tenancy or building)</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> <li>• Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted</li> </ul>

*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.*

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

**Temporary Site Fencing**

31. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works, in accordance with the SafeWork guidelines and the following requirements:
- a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.
  - b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
  - c) All site fencing, 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.
  - d) Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.
  - e) Site access gates must open inwards and not onto Council land.

*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.*

**Site Management**

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

- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.
- 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.

#### **Site Access**

33. A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover. Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.

#### **Removal of Asbestos Materials**

34. 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 10m<sup>2</sup> 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](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

#### **Dust Control**

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

*Dust control measures and practices may include:*

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

#### **Complaints Register**

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

Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigated, actioned and responded to and documented in a Complaints Register accordingly.

Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.

#### **Survey Requirements**

37. 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.

#### **Building Encroachments**

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

#### **Road / Asset Opening Permit**

39. 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.

#### **Ausgrid Power Feed Connection**

40. Should the existing overhead power feed from the Ausgrid Power Pole need to be reconnected to the site during any stage of building works it is to comply with either of the following methods:

- a) From the power pole directly to the façade of the building to the satisfaction of Ausgrid
- b) From the distribution pole in the street to the development site via an underground (UGOH) connection (No Private Pole is to be provided). These works are to be to Ausgrid requirements.

Note: A Private Power Pole at the front of the site is not permitted. The applicant is to liaise with an Ausgrid Accredited Service Provider to carry out the works as mentioned above at their own expense to the satisfaction of Ausgrid and the Principal Certifier.

#### **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.

#### **Noise Control Requirements & Certification**

41. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Principal Certifier and Council, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW EPA Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources including providing sound limiting measures to amplified equipment in accordance with recommended measures detailed in section 7.0 acoustic report prepared by PKA Acoustics dated 27.07.2022. Sources may also include but not limited to all plant and equipment such as air conditioning units, mechanical ventilation.

#### **Occupation Certificate**

42. 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*.

**Fire Safety Certificate**

43. A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the *Occupation Certificate*, in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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

**Structural Certification**

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

**Sydney Water Certification**

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

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

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

**Council's Infrastructure, Vehicular Crossings, street verge**

46. 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.
47. 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.
48. That part of the nature-strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.
- Stormwater Drainage**
49. The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with Australian Standard 3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and the conditions of this development approval. The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the Principal Certifier.
- Flooding**
50. A works-as-executed plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):
- Levels of critical flood protection points (eg, landing at top of stairs, floor levels, top of wall).
  - Details of completed flood protection measures as detailed in the conditions of consent.
  - Confirmation that the basement level has been tanked/waterproofed
51. The Principal Certifier shall be satisfied that the completed development complies with the flood protection measures as specified in the conditions of this consent and the Flood Impact Assessment Report by Donovan and Associates dated 23rd March 2023.
52. A "restriction on the use of land" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the approved flood protection measures are not compromised by any future works. Such restriction shall not be released, varied or modified without the consent of Randwick Council.
- Notes:
- a) The "restriction on the use of land" is to be to the satisfaction of Council. Please contact Council's Development Engineer on 9093-6881 for provision of appropriate wording.
  - b) The Works as Executed Plan must be submitted to Council prior to the restriction being executed by Council

#### 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.

**Offensive noise**

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

In this regard, the operation of the plant and equipment shall not give rise to an  $L_{Aeq, 15 \text{ min}}$  sound pressure level at any affected premises that exceeds the background  $L_{A90, 15 \text{ min}}$  noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

54. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of vibration or damage to other properties.
55. The use and operation of the premises shall not give rise to a public nuisance.
56. Self closing devices shall be provided to all exit and entry door and doors shall remain closed other than people exiting and entering.
57. The front entry door on Varna Street Clovelly can remain open during the daytime period up until 6:00pm.
58. A report prepared by a suitably qualified and experienced consultant in acoustics shall be submitted to Council **3 months after occupation certificate being issued for the development**, which demonstrates that noise and vibration emissions from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy, relevant conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources and shall include assessment of dance classes .
59. The Plan of Management (including noise management) shall be reviewed by a suitably qualified acoustic consultant and amended if required to confirm all recommended acoustic requirements and conditions of consent have been included in the document. The POM shall also include the following:
- ensure compliance with the relevant conditions of approval,
  - ensure compliance with relevant noise criteria and minimise noise emissions and associated nuisances,
  - minimise the potential environmental and amenity impacts upon nearby residents,
  - effectively manage and respond to resident complaints,
  - ensure that the maximum number of occupants does not exceed the authorised capacity confirmed by the acoustic consultant including but not limited to communal areas, in accordance with Council's consent.

Once reviewed and approved by an acoustic consultant the Plan of Management must be complied with at all times and a copy shall be forwarded to Council. This shall be completed prior to commencement of use



60. Any changes to the proposed operation of the premises may be subject to further development consent and/or a report may also be required to be obtained by a suitably qualified and experienced consultant in acoustics certifying the operation complies with the relevant noise criteria.

61. Adequate provisions are to be made within the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council.

The waste storage area must be located within the property

Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with Council's requirements.

62. Trade/commercial waste materials must not be disposed via council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to Council prior to commencing operation of the premises.

#### **Operational Hours**

63. The hours of operation of the premises are restricted to 8.15am to 10.00pm on Monday to Sunday (inclusive) and up to 10.30pm on Christmas Eve.

#### **Fire Safety Statement**

64. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* on an annual basis each year and as specified in the *Fire Safety Schedule* for the building.

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

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

#### **Environmental Amenity**

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

#### **Use of commercial premises**

66. A separate development application and construction certificate or a complying development certificate (as applicable) must be obtained if the premises is to be used for any of the purposes other than that of the primary use being a place of public worship or those ancillary to the primary use.

Business premises must comply with relevant public health and safety legislation and requirements and they must be registered with Council prior to an Occupation Certificate being issued for the development.

## Development Application Report No. D34/23

**Subject:** 5 Ahearn Avenue, South Coogee (DA/490/2015/C)

### Executive Summary

<b>Proposal:</b>	Section 4.55(2) - Modification to the approved development for the changes including: Basement, living areas, pool and cabana, windows and increased height. Original consent: Demolition of existing dwelling, construction of new four level dwelling including double garage, swimming pool and studio to rear, landscaping and associated works.
<b>Ward:</b>	East Ward
<b>Applicant:</b>	Pinnacle Design Company Pty Ltd
<b>Owner:</b>	Mr T R & Mrs T E Rugless
<b>Cost of works:</b>	\$704,323.00
<b>Reason for referral:</b>	Conflict of Interest and more than 10 unique submissions

D34/23

### Recommendation

That the RLPP, as the consent authority, approve the application made under Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Application No. DA/490/2015/C for Modification to the approved development for the changes including: Basement, living areas, pool and cabana, windows and increased height. Original consent: Demolition of existing dwelling, construction of new four level dwelling including double garage, swimming pool and studio to rear, landscaping and associated works, at No. 5 Ahearn Avenue, South Coogee, in the following manner:

#### (a) Amend Condition 1 to read:

#### 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:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>
DA 01_01 (Issue A)	Urban Future	7 July 2015
DA 02_01 (Issue A)	Urban Future	7 July 2015
DA 03_01 (Issue A)	Urban Future	7 July 2015
DA 03_02 (Issue A)	Urban Future	7 July 2015
DA 03_03 (Issue A)	Urban Future	7 July 2015
DA 03_04 (Issue A)	Urban Future	7 July 2015
DA 03_05 (Issue A)	Urban Future	7 July 2015
DA 04_01 (Issue A)	Urban Future	7 July 2015
DA 04_02 (Issue A)	Urban Future	7 July 2015
DA 04_03 (Issue A)	Urban Future	7 July 2015
DA 04_04 (Issue A)	Urban Future	7 July 2015
DA 04_05 (Issue A)	Urban Future	7 July 2015
DA 05_01 (Issue A)	Urban Future	7 July 2015
DA 05_02 (Issue A)	Urban Future	7 July 2015

<b>BASIX Certificate No.</b>	<b>Dated</b>
A209591	22 January 2015

D34/23

**EXCEPT where amended by:**

- (a) the following Section 4.55 'B' plans and supporting documents only in so far as they relate to the modifications highlighted on the Section 4.55 'B' plans and detailed in the Section 4.55 'B' application:

Plan	Drawn by	Dated	Received by Council
S 4.55, 03.00, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 04.00, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 04.10, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 04.20, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 04.30, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 04.40, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 05.00, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 05.10, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 06.00, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 06.05, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 06.10, Revision 2	Pinnacle	28/10/2020	28/10/2020
S 4.55, 6.20, Revision 3	Pinnacle	4/11/2020	04/11/2020
S 4.55, 06.30, Revision 3	Pinnacle	04/11/2020	04/11/2020

BASIX Certificate No.	Dated	Received by Council
1126704S	18 August 2020	3 September 2020

**EXCEPT where amended by:**

- (a) Council in red on the approved plans; and/or  
 (b) Other conditions of this consent; and/or  
 (c) the following Section 4.55 'C' plans and supporting documents only in so far as they relate to the modifications highlighted on the Section 4.55 'C' plans and detailed in the Section 4.55 'C' application:

Plan	Drawn by	Dated	Received by Council
S4.55 - 03.00, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 04.00, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 04.10, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 04.20, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 04.30, Revision 2	Pinnacle	09/02/2023	20/02/2023

S4.55 - 04.40, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 05.00, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 05.10, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 06.00, Revision 3	Pinnacle	14/03/2023	15/03/2023
S4.55 - 06.05, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 06.10, Revision 2	Pinnacle	09/02/2023	20/02/2023
S4.55 - 06.20, Revision 3	Pinnacle	14/03/2023	15/03/2023
S4.55 - 06.30, Revision 3	Pinnacle	14/03/2023	15/03/2023

#### Landscape Plans

LA-01 Landscape Plan - Basement	Baldwin Botanical Design	08/02/2023	20/02/2023
LA-02 Landscape Plan – Ground floor	Baldwin Botanical Design	08/02/2023	20/02/2023
LA-03 Landscape Plan – First floor	Baldwin Botanical Design	08/02/2023	20/02/2023
LA-04 Landscape Plan – Second floor	Baldwin Botanical Design	08/02/2023	20/02/2023
LA-05 Precedent images	Baldwin Botanical Design	08/02/2023	20/02/2023
LA-06 Plant palette and schedule	Baldwin Botanical Design	08/02/2023	20/02/2023

BASIX Certificate No.	Dated	Received by Council
1126704S_04	10 February 2023	20/02/2023

**(b) Add the following conditions to condition 2:**

- d. For the purpose of ensuring adequate articulation to the front façade which is compatible with the balcony enclosures in the streetscape, and for the purpose of reducing gross floor area and the appearance of bulk for the site, the enclosure of the balcony on the first floor to the dining room and living room is not approved. The privacy screening to the balcony on the northern side must remain. The front (eastern) glazing to the first floor living and dining area may comprise sliding doors, fixed glass or a combination of these, but must include at least one door (sliding or standard) to the balcony;
- e. For the purpose of ensuring adequate ventilation to the family room on the ground floor, an operable window must be included in the eastern façade other than above the stairwell void;
- f. The southern windows on the first floor to the living room are to have full height fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into windows of the adjacent property of 4 Ahearn Avenue;

- g. The first floor deck off the kitchen is to have a privacy screen on the northern side having a height of 1.6m (measured above the finished floor level) constructed with either:
  - Fixed lattice/slats with individual openings not more than 30mm wide, or
  - 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
- h. The following window/s must have either:
  - a minimum sill height of 1.6m above floor level, or
  - the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height (The use of film applied to the clear glass pane is unacceptable); or
  - a privacy screen having a height of 1.6m (measured above the finished floor level) constructed with either:
    - Fixed lattice/slats with individual openings not more than 30mm wide
    - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings:
  - (i) The northern ground floor window for the family room; and
  - (ii) all windows in the ensuite on the ground floor on the south and east elevation.
- i. The privacy screening shown on the Roof Plan S4.55 04.40 Rev 2 to the non-trafficable roof east of the eastern facade of the second floor is not approved. The only screening above RL37.54 on the northern side of the second floor is the 1.6m privacy screen on the balcony to the master bedroom.
- j. For the avoidance of doubt, no windows are approved on the northern elevation of the second floor.
- k. The colour and materials for the fencing on the northern side must comply with this condition 4 and are to be submitted to and approved by Council's Manager Development Assessment prior to the issue of the Construction Certificate.

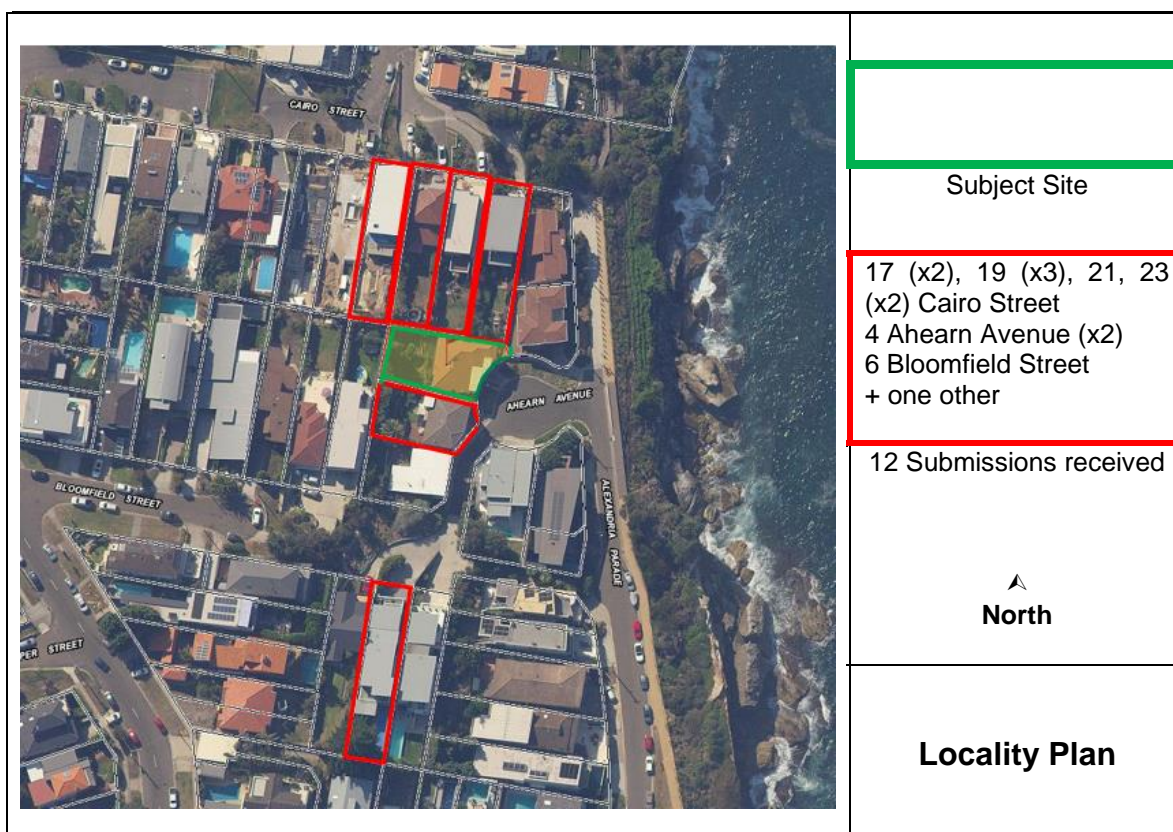
**(c) Add the following conditions:**

55. For the purpose of seeking to restrain the amount of gross floor area on the site, the basement storage area and plant room are not to be used as a habitable room or for any habitable purposes. They are approved as non-habitable area only (i.e. plant room and storage).
56. For the purpose of reducing the impact of the built form in the rear yard from the neighbours' viewpoint, and to ensure no further gross floor area is added to the site, the cabana must not be enclosed by solid walls or glazing on the sides except as provided by the approved plans.
57. For the purpose of retention of privacy for the neighbours, the roof of the first floor to the east of the master bedroom and balcony is to remain non-trafficable.
58. The cabana roof must be retained as a green roof with significant vegetation for the life of the development.

**Attachment/s:**

Nil





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## 1. Reason for referral

This application is referred to the Randwick Local Planning Panel (RLPP) because:

- The General Manager has exercised his discretion to refer the application due to the potential conflict of interest declared by the applicant.

## 2. Site Description and Locality

The site is at 5 Ahearn Avenue, South Coogee in Lot 5 DP 29787. The site and surrounding residences are within the R2 Low Density Residential zone. Under RLEP 2012 the site has a maximum height of 9.5m and a maximum FSR of 0.75:1.

The site is on the western side of Ahearn Avenue and is above the street - looking east towards the ocean. Ahearn Avenue is a cul-de-sac which provides access to 4, 6 and 8 Bloomfield Street to the south of the site.

The site is 416.25m<sup>2</sup> with irregular boundaries of a front (eastern) arc of 15.42m, an eastern boundary of 3.57m, a northern boundary to 19, 21 and 23 Cairo Street of 30.215m, a western boundary to 11 Bloomfield Street of 13.715m and a southern boundary to 4 Ahearn Avenue of 25.695m.

The site includes a considerable slope of approximately 11m. A survey dated 2 July 2007 from the original application indicated the site fell from RL38.85 in the south-west corner to RL27.73 in the north-east corner. A survey of neighbouring properties was conducted on 16 January 2023 to establish levels near the boundaries.

A Sydney Water sewer pipeline exists along the northern side of the site near the boundary. The site overlooks the ocean and is close to the coastal footpath. It is at in the "elbow" of the very steep Ahearn Avenue which is accessed off Alexandria Parade. The site is within the coastal

environment area and coastal use area under Chapter 2 – Coastal Management of the SEPP (Resilience and Hazards) 2021. It is in the foreshore scenic protection area under the RLEP 2012.

The surrounding development is of large dwelling houses, many of which have been either reconstructed or substantially renovated over the past decade. Many of the dwellings have enclosed their balconies, although others have balconies overlooking the view. Wedding Cake Island is to the north-east of the site and many of the houses have vistas to it.

There are three dwellings which have their rear boundaries on the northern boundary of the site – being 19, 21 and 23 Cairo Street. Each of these sites have levelled the rear yard so that there is a stepping down the hill between the sites. Some works have been undertaken to the rear landscaped areas of some of these properties over the past few years, most particularly to 23 Cairo Street with the effect that it appears that the ground levels near the boundary of the site have increased above that shown in the 2007 survey which was lodged with the original application. These neighbours, together with 17 Cairo Street which is to the north-west of the site, all currently have views towards the south and south-east which include to Maroubra Headland. To their north-east, they also all have views to Wedding Cake Island and headlands to the north.

4 Ahearn Avenue is adjacent and to the immediate south of the site. Development consent for alterations and additions was approved under DA/934/2018 on 20 September 2019. Modification B was approved on 23 November 2020. On 30 July 2020 the construction of a pool in the rear yard was approved under DA/225/2020 at 4 Ahearn Avenue. That pool has been constructed and the alterations and additions completed.

To the west of the site is 11 Bloomfield Street. On 30 September 2021 consent was granted for a swimming pool with decking at the rear and associated works. Modification DA/467/2021/A with respect to the decks was lodged on 21 July 2022. The tracker DA website does not show this modification application as having been determined. Aerial photographs from Nearmap indicates that the pool has been constructed.



**Figure 1:** Aerial view dated 16 February 2023 (Source Nearmap)

The site is currently a construction site as evidenced by the aerial view in Figure 1 and the photograph below in Figure 2. The original dwelling has been demolished and extensive excavation



and piling and shoring of the site has occurred. Formwork is in place prior to pouring of the concrete for the upper levels.



**Figure 2:** Photograph taken 9 December 2022. Since this date the concrete slab has been poured and formwork for levels above constructed. Reinforcing bracing to the walls is shown.



**Figure 3:** Footings for the pool and cabana from 19 Cairo Street's rear yard 9 December 2022 looking south. Cabana roof to be just above the temporary metal bracing

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### 3. Details of Current Approval

The approved development is for demolition of existing dwelling, construction of new four level dwelling including double garage, swimming pool and studio to rear, landscaping and associated works.

The original development application was determined by delegated authority on 8 March 2016. It provided for demolition of the existing dwelling, construction of a new four level dwelling including double garage, swimming pool and studio to the rear, landscaping and associated works. Conditions of consent required that the proposed external louvres to the side elevation be evenly spaced and angled to prevent overlooking into neighbouring properties. The approval included a timber deck in front of the dwelling at ground floor level and first floor level, each of 2.4m x 4.8m. The lift was centrally located. The second floor included a studio and bathroom and storage with a timber deck within the front of 1.9m x 3.5m. A separate studio to the west (rear) was 3m x 3.5m, including a small bathroom and was adjacent to a pool and spa with timber decking and included a 2.95m setback to the rear boundary. The basement level is entered at the kerb level of the site and the ground floor level is elevated at effectively a first floor level.

Modification DA/490/2015/A was lodged on 20 August 2020 which sought to increase the size of the basement and make various reconfigurations, however, was rejected due to insufficient information.

Modification DA/490/2015/B was lodged on 3 September 2020 as a section 4.55(2) application. It sought reconfiguration of the floor plan and lift location. It originally sought a much increased basement to allow for parking of 4 cars and a bin room and deleted various louvres approved for privacy reasons. The application was approved on 5 November 2020 under delegated authority. Other than internal reconfigurations, the principal changes approved under Modification B were:

- The ground and first floor balconies were extended to almost hug the front boundary;
- The lift was relocated to the north with a glass frontage to the north;
- The deck off the kitchen to the rear was converted from perforated aluminium to concrete;
- Louvres were amended;
- The rear studio increased in size to 5.1m x 3.6m, plus a bathroom and the rear setback was reduced from 2.95m to 1.155m. A canopy roof was introduced to overhang part of the pool (now without a spa) and the pool deck increased in size;
- The finished floor levels and floor to ceiling levels changed, although the height of the building remained the same at RL 40.03;
- A terrace off the laundry on the southern side was added to provide access which appears to have required paving over landscaping;
- Conditions of consent required the northern side of the second floor balcony to have a 1.6m high privacy screen and the windows of the second floor western elevation ensuite to be obscured.

Modification C DA/490/2015/C was lodged on 24 October 2022.

A request for further information was issued on 28 December 2022. The matters raised in that request are summarised as follows:

- Possibility of illegal works having been conducted;
- Multiple errors in the documentation, including the plans and Statement of Environmental Effects;
- Further information required on the plans including dimensions, shadow diagrams on the elevation of 4 Ahearn Avenue, fencing and retaining walls;
- Justification for the lift relocation is required as this is what requires the additional GFA in the second floor;
- Balcony infill is not supported;
- Cabana extension and increase in height are not supported;
- Building height and wall height exceedance is not supported and no justifications have been provided;
- Reduction in landscaped area is not supported;

- The basement excavation has already occurred but cannot be used as habitable area;
- Privacy concerns to the north remain;
- A view loss assessment is required for 17 and 19 Cairo Street;
- Plans are inconsistent with BASIX certificate.

Amended plans and documentation were provided during February and March 2023, with the amended plans being Rev 2. Some elevations were replaced during March 2023 and are Rev 3.

The amended documentation was notified for 14 days between 31 March 2023 and 14 April 2023. Three objections were received from the notification.

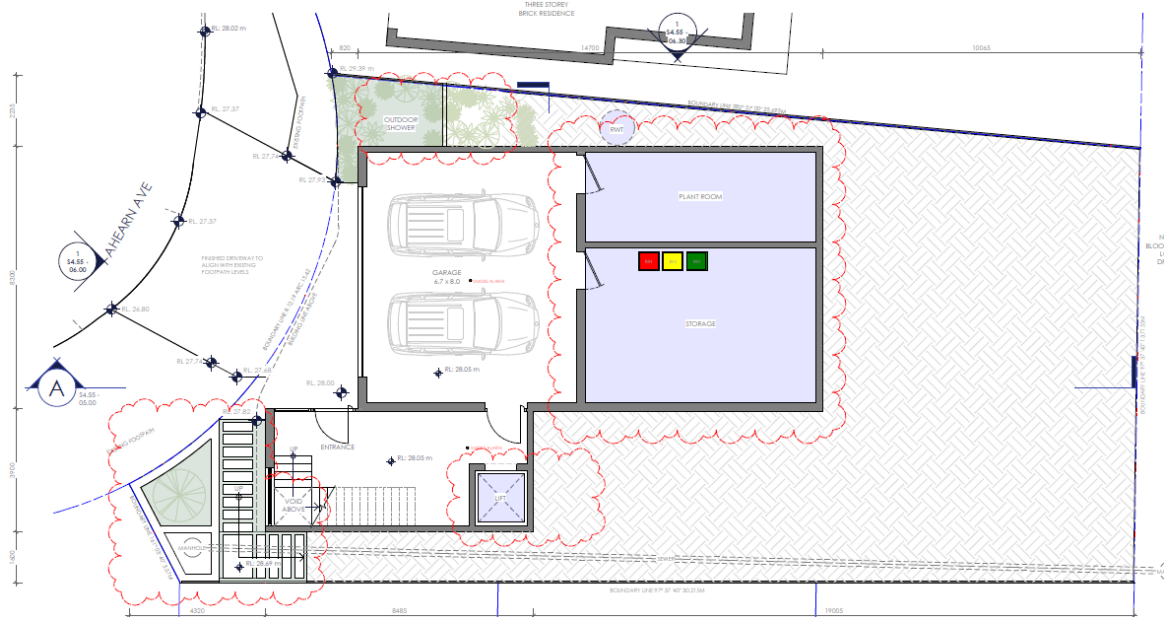
#### 4. Proposal

The principal modifications sought to the approved development by the amended plans Rev 2 and 3 for Mod C can be summarised as:

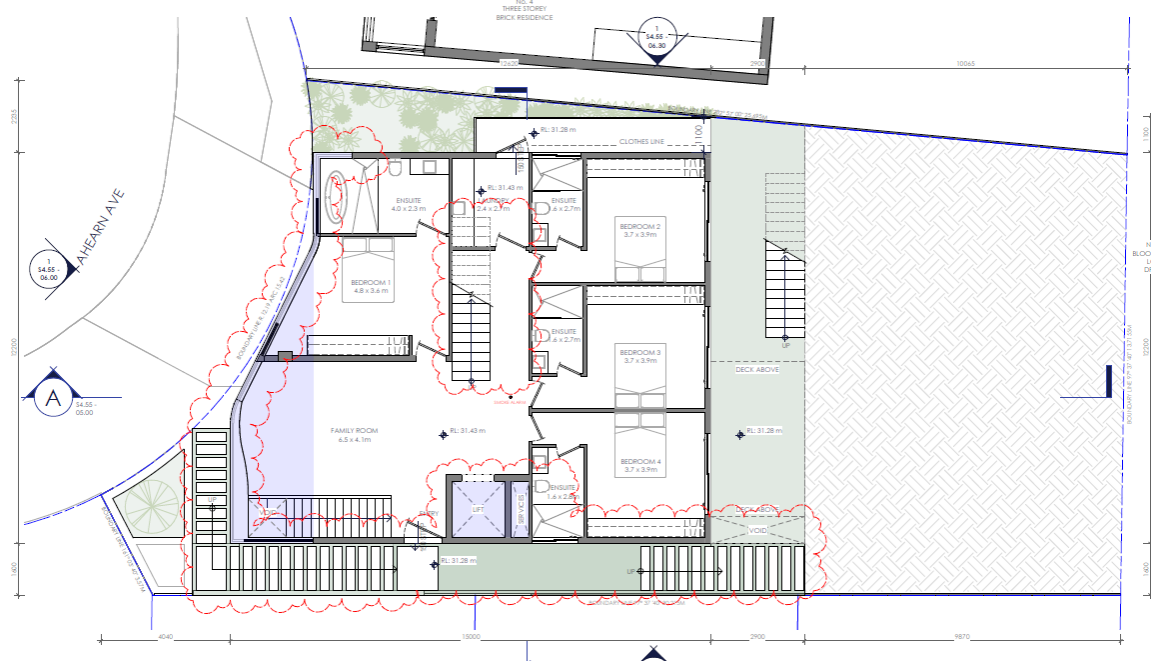
- Basement:
  - Increase in basement area to include a large plant and storage area
  - Relocation of the lift. Glass lift to be solid on the northern wall for each level.
  - Outdoor shower and rainwater tank to the south
- Ground floor:
  - Enclosure of the eastern balcony
  - Relocation of the lift and removal of the glazing to the lift
  - Additional windows on south-east corner
  - Internal stairs from the basement entry are relocated to partially within the now enclosed balcony
  - Internal central stairs relocated slightly to the east
  - Changes to northern external stairs and northern pathway
- First Floor:
  - FFL is 0.3m above approved level;
  - Enclosure of the eastern balcony
  - Relocation of the lift;
  - Internal central stairs relocated slightly to the east
  - Void created to the north of the kitchen deck to allow light for the bedroom 4 on the ground floor
  - Cabana roof extent to be increased in size to the piling on the south and western boundaries, with open sides, therefore removing FSR within the majority of the cabana;
  - Cabana and pool deck FFL is 0.17m lower than approved;
  - The green roof which is approved was originally to be removed but has now been reinstated;
  - Pool slightly reduced in size.
- Second Floor:
  - FFL is 0.3m above approved level;
  - Lift relocated;
  - Windows on northern side to be removed;
  - Extension of the eastern façade to the east by about 0.7m;
  - Cabana roof increased in height from RL38.87 to RL39.45 with an additional skylight. Also increased in area to meet the piling on the southern boundary;
  - The conditioned obscured glazing to the western ensuite is sought to be clear glass;
- Roof:
  - Roof height increased by 850mm from RL40.03 to RL40.880.
- Landscape/rear
  - The northern stairs and pathway are elevated to accommodate the Sydney Water pipeline;
  - Fencing is proposed on the northern boundary at 1.8m above the neighbouring properties' ground level.



**Figures 4-7** show the marked up proposed modified floor plans (red clouds and purple shading) and **Figure 8** shows the proposed amended front elevation.



**Figure 4:** Basement S4.55- 04.00 Rev 2



**Figure 5:** Ground floor S4.55- 04.10 Rev 2

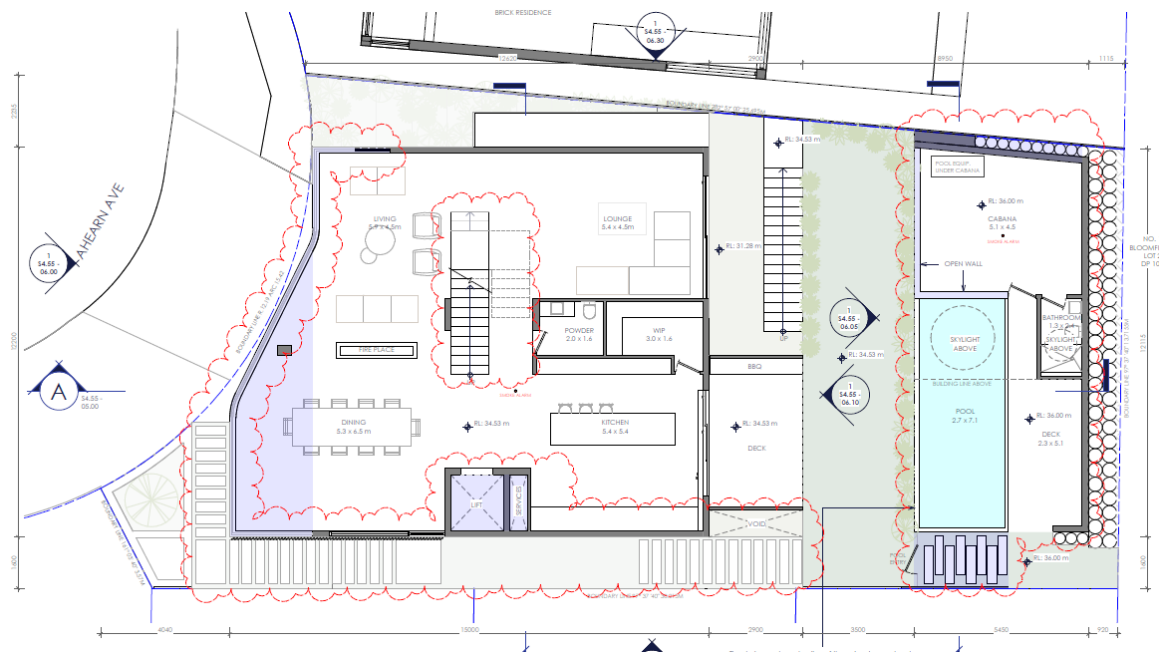


Figure 6: First floor S4.55- 04.20 Rev 2

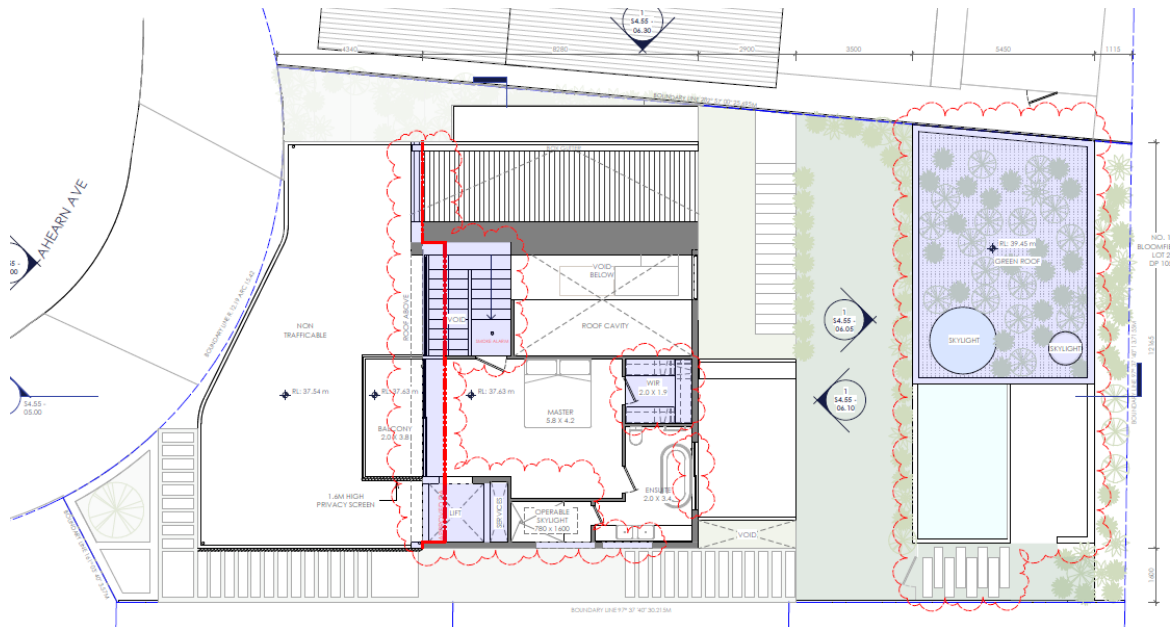
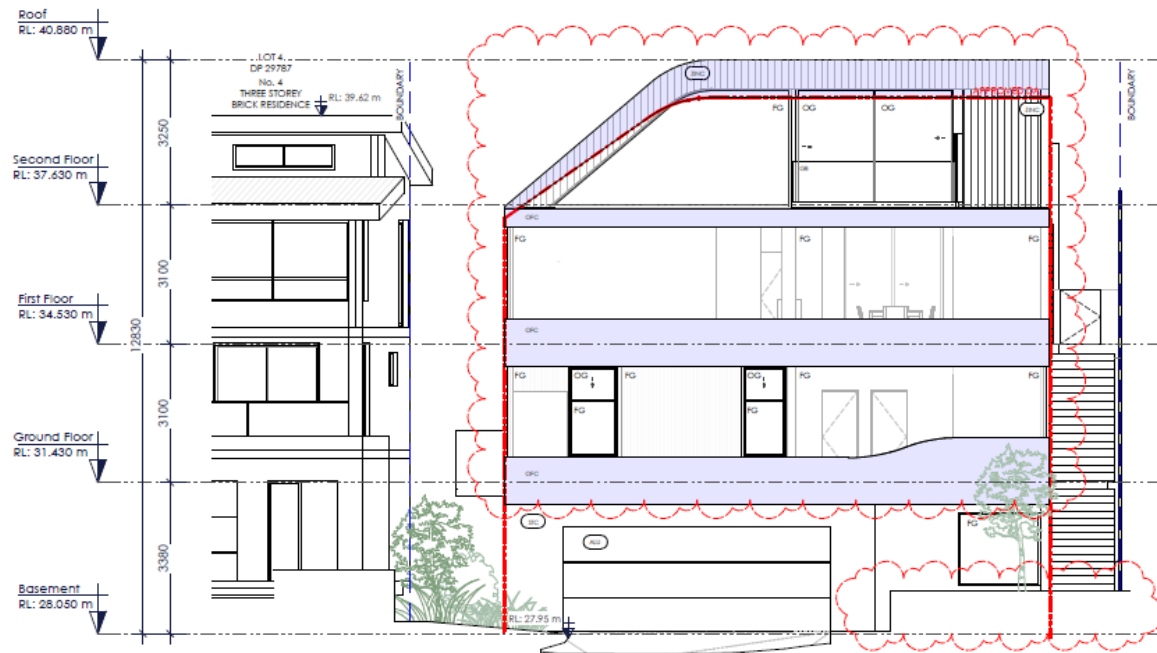


Figure 7: Second floor S4.55- 04.30 Rev 2

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**Figure 8:** East Elevation s4.55 – 6.00 Rev 3

A comparison between the original development, Mod B, and Rev 2/3 for Mod C is set out in the Table below:

Site Area 416.2m <sup>2</sup>	490/2015	490/2015/B	490/2015/C Rev 2/3
Height Max 9.5m RL39.45	RL40.03 12.02m 26.53% variation	RL40.03 12.02m 26.53% variation	RL40.88 12.87m <b>35.5% variation</b>
FSR: Control is 0.75:1 0.75:1 = 312.15m <sup>2</sup>	0.75:1 312.19m <sup>2</sup>	0.74:1 311.8m <sup>2</sup> Calculations incorrectly excluded stairs, lift. Actually approved at 357.2m <sup>2</sup> or 0.86:1. 14.4% (45m <sup>2</sup> ) variation	0.88:1 365.2m <sup>2</sup> - 8m <sup>2</sup> more than Mod B, 53.0m <sup>2</sup> more than original. <b>17% variation</b>
Wall height max 8m	9.7m 21.3% variation	9.7m 21.3% variation	10.55m (RL40.88-30.33) <b>31.8% variation</b>
Site coverage: Max 55% (228.9m <sup>2</sup> )	173.1m <sup>2</sup> 41%	179.5m <sup>2</sup> 43.1%	209.1m <sup>2</sup> 50.2% <b>Complies</b>
Deep soil Min 25% (104.05m <sup>2</sup> )	127.5m <sup>2</sup> 30.6%	137.9m <sup>2</sup> 33%	113.4m <sup>2</sup> 27.2% <b>Complies</b>
Private open space 6x6m	Comply	Comply	Comply
Front setback	Nil	Nil	Nil
Side setback >12m min 1.2m and 1.8m at 2 <sup>nd</sup> storey	South:1.12m North 1.555m	South:1.12m North 1.555m	South 1.1m North 1.6m <b>Continues non-compliance but slightly increased from approved</b>
Floor levels: Basement Ground	RL 28.01 31.83	RL 27.97 (-0.04) 31.43 (-0.4)	RL 28.05 (+0.04) 31.43 (per Mod B)

Site Area 416.2m <sup>2</sup>	490/2015	490/2015/B	490/2015/C Rev 2/3
First	34.43	34.23 (-0.2)	34.53 (+0.1m)
Second	37.33	37.33	37.63 (+0.3m)
Floor to ceiling (m):			
Basement	3.52m	3.2m	2.48m
Ground	2.3m	2.3m	2.6m
First	2.6m	2.7m	2.6m
Second	2.4m	2.4m	2.6m
<b>Cabana</b>			
Height cabana	RL38.87	RL38.87	RL39.45 (+0.58m) to about 3.45m
Size cabana	3 x 3.5m = 10.5m <sup>2</sup> GFA	5.1 x 3.6 = 18.36m <sup>2</sup> GFA	5.1 x 4.5 = 22.95m <sup>2</sup> (not GFA other than bathroom)
FFL cabana	RL36.17	RL36.17	RL36.0
Pool	2 x 5.8m + spa 2 x 1.8m = 15.2m <sup>2</sup>	2.7 x 7.5 = 18.75m <sup>2</sup>	2.7 x 7.1 = 19.17m <sup>2</sup>
Side setback	1.0m	North 1.35m South 0.9m	North 1.6m South nil
Rear setback	2.95m	1.155m	0.92m-1.115m

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## 5. Section 4.55 Assessment

Under the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979 (the Act), as amended, Council may only agree to a modification of an existing Development Consent if the following criteria have been complied with:-

1. it is satisfied that the development to which the consent as modified relates is *substantially the same development* as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
2. it has consulted with any relevant public authorities or approval bodies, and
3. it has notified the application & considered any submissions made concerning the proposed modification

An assessment against the above criteria is provided below:

### 1. Substantially the Same Development

The proposed modifications are not considered to result in a development that will fundamentally alter the originally approved development.

### 2. Consultation with Other Approval Bodies or Public Authorities:

The development is not integrated development or development where the concurrence of another public authority is required.

### 3. Notification and Consideration of Submissions:

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

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- 4 Ahearn Avenue South Coogee

Issue	Comment
Enclosure of balconies impacts on our amenity and views and leads to non-compliance with the FSR control. It means there is no street setback.	It is not expected that the enclosure will impact on their views. It is recommended that the first floor balcony not be approved for enclosure. See section 6.3 below
Privacy by cross viewing into their living area from the enclosure of the first floor balcony. The south facing window should have been removed and replaced with a splay. There is total view loss from the northern living room window.	Enclosure of the balcony is not anticipated to increase cross viewing. View loss – see commentary below in section 6.6.
Increase in building height of 850mm is excessive. The justification to encase the lift overrun does not justify a whole roof profile change which result in additional bulk. It does not satisfy the objectives of the height standard. It will present as a 12.8m high building	See consideration of building height below in section 6.1
Does not respond to the topography of the street. It will be higher than 4 Ahearn Avenue	Agreed, it will be higher, but it is already approved as higher. 4 Ahearn Avenue has a ridge at RL39.62. The approved height is at RL40.03 and proposed at RL40.88
Solar access drawings do not clearly show the impact of the increased height on the north facing windows of their living room	Amended solar access plans demonstrate minor increased solar access impacts between noon and 3.30pm
There is no justification to move the cabana to the southern boundary or to increase its height. It will have adverse impacts on the amenity of the backyard of 4 Ahearn Ave. The increase in cabana size and reduction in setbacks is unreasonable with visual impacts	The engineering response provides justification. The DCP does not require setbacks in this situation. The roof is to be a green roof. See section 6.7 below.

- 17 Cairo Street South Coogee

Issue	Comment
The cabana is substantially increased in height creating bulk and the roof garden is removed. There are no setbacks and it increases the floor area	See discussion in section 6.7.
The second floor expansion will impact view lines to the Maroubra headland. Creates significant bulk and sets a precedent for excessive FSR.	See discussion re FSR (section 6.2) and views (section 6.6).
Increase in height is well beyond the controls	See discussion in section 6.1
Would like to see the height in context with surrounding properties	See view analysis in section 6.6
New development should be sympathetic to surrounding houses and meet council guidelines. This detracts from the area for residents and visitors who enjoy the coastal walks.	See discussion in section 6.3

- 19 Cairo Street South Coogee – 1<sup>st</sup> submission

Issue	Comment
Exceeds permissible FSR and building height. Some of the elements which previously mitigated bulk and scale are to be removed	See discussion in section 6.1 and 6.2



Issue	Comment
The rear gym has direct sight lines into our rear yard. The rooftop garden which previously mitigated some of the bulk and scale is being removed. It is also increasing in height and size	The rooftop garden has been reinstated. See discussion in section 6.7
Significant expansion of the basement is retrospective as the piling and excavation is already completed	Noted. It is recommended that the basement be conditioned to be non-habitable
Enclosing the balconies increases FSR, and the calculations in the documents do not appear accurate. Sets a precedent	Regarding precedent, each application is assessed on its own merit. See discussion on balconies in section 6.3
Second floor shows expansion to the floor plate which impacts on view lines to Maroubra Headland from 19 and 17 Cairo Street. It has not been assessed	See discussion about views in section 6.6
Incorrectly states there is no increase in height	Noted
Previous modification included screening louvres to mitigate privacy concerns, and this application seeks to reverse those inclusions and replace them with battens which offer low screening. More details required for privacy	See discussion in section 6.4.1
No indication of the relative levels of the northern properties to the site making interpretation difficult	A survey of the relative levels of the rear yards of the properties to the north was provided and notified.
Difficult to understand the relative scale	See view loss montages.

- 19 Cairo Street South Coogee – second submission

Issue	Comment
Object to removal of the privacy screen on the north elevation of the ground floor. Want the current angled privacy screen retained	This is recommended to be conditioned. See section 6.4.1
Drawings should be consistent	Noted. Rev 2 and Rev 3 have improved this
Fencing is unclear and inaccurate comments	The north elevation in Rev 3 now shows fencing
Changes are not clouded	Noted

- 21 Cairo Street South Coogee

Issue	Comment
Privacy – overlook into my bedroom and yard from the 1 <sup>st</sup> floor balcony. Request privacy screens on the northern side of the balcony	It is assumed this is the kitchen deck. A privacy screen is recommended. See section 6.4.1
Potential to overlook from the 2 <sup>nd</sup> floor balcony. The previous council requirement for a privacy screen has been dropped	The privacy screen has been reinstated into the Rev 2 plans
Potential to overlook from the cabana into my property. Request privacy screens on the northern aspect of the structure	The cabana is about 9m from the northern boundary. A fence is now proposed at 1.8m above the swimming pool deck level to a top height of approximately RL37.8. Views across to 21 Cairo Street from the cabana will be partially blocked by the new dwelling and kitchen deck.
Height is substantial and over the legal limit	See discussion in section 6.1
What is proposed re the fencing? My fence is removed. What material is to be used and at what height?	The northern elevation S4.55 – 6.20 Rev 3 has included a fence line. It is recommended that the conditions require the fence materials to be approved by the Manager Development Assessments.

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- 23 Cairo Street South Coogee – 1st submission

Issue	Comment
<b>Boundary fences and retaining walls</b> What is proposed on the north boundary? The new internal stair on the NE corner is approximately 700mm higher than previously shown. This leads to privacy impacts unless suitable boundary fencing is provided	As detailed in the engineer's report, changes to the northern stair levels have been required to overcome the issues associated with the Sydney Water pipeline. The elevations Rev 3 show the proposed fence. A condition requiring the materiality of the fence is required.
<b>Enclosure of balconies</b> Increase in the internal floor area from enclosure and changes the use from occasional to constant daily living leading to loss of visual and acoustic privacy. Greater information required to address these issues	See consideration of the balcony enclosure in section 6.3.
<b>Louvres</b> The approved angled louvres are now shown as rectangular battens. Details are limited – are the louvres to go over these? The battens focus overlooking directly northwards over our property	The Rev 2 plans now show these as angled louvres directing the view north-east. The original application approved dark aluminium louvres as the materiality, subject to condition 4
<b>1.6m privacy screen</b> The conditioned 1.6m privacy screen on the 2 <sup>nd</sup> floor balcony north wall is not shown	Noted. This is corrected in Rev 2 plans
<b>FSR</b> Exceeds the standard by 16%, but the calculations are wrong. The cabana is not included. FSR is 0.87:1	The cabana is open on the east and north side and is therefore not included in the GFA definition, hence not in the FSR calculations.  See consideration of FSR in section 6.2
<b>Roof height</b> SEE is incorrect and misleading saying that the roof height is not altered. It is approximately 900mm higher and exceeds the height plane, creating more bulk	It is agreed the SEE included numerous errors. See consideration of height in section 6.1
<b>Overlooking impact</b> No photographs of views in the SEE. View loss assessment is required	This has been provided for 17 and 19 Cairo Street
<b>Missing perspective</b> A rendered perspective is required to show the view from the eastern public areas	This is not a council requirement. A front elevation is provided as required. The Rev 2 axonometric views provide a better guide to the appearance from the east (street)
<b>Overlooking</b> The SEE fails to consider the amenity of the northern neighbours and contains errors. The distance to the Cairo Street properties is not "significant". Impacts on amenity	Errors were noted. See consideration of privacy in section 6.4
Potential conflict of interest	This was declared. The assessor is not an employee of Council
Incorrect statements in the SEE	Agreed – there are numerous incorrect statements in the SEE. An amendment to the SEE and amended plans correct many of these.

- 23 Cairo Street South Coogee – 2<sup>nd</sup> Submission

Issue	Comment
Based on a second set of documents and to be read in conjunction with the earlier submission. There is confusion in the documentation.	Noted. The first set of documents contained numerous errors.

Issue	Comment
Louvres on the north elevation on the ground floor have been deleted in the second set, also the privacy screen on the second floor balcony	The second floor balcony screen has been reinstated in Rev 2. The louvres to the ground floor have not been reinstated. See consideration under privacy in section 6.4.
Drafting errors and omissions, contradictory and misleading statements	Agreed
Cabana still not included in the FSR diagram. Cabana details are unclear. Possible impact on visual and acoustic privacy from the cabana area. Would like time restrictions on use of cabana and privacy screens	It is open and therefore not GFA as defined in the RLEP 2012. A condition of consent is proposed to ensure that it remains open and not enclosed. See section 6.6. It is not considered reasonable or practical to have time restrictions on the use of parts of private dwellings as requested.
Lack of information about retaining walls and fences	A fence is proposed in the Rev 3 north elevation

- 6 Bloomfield Street

Issue	Comment
4 levels. Increase height by nearly 1 metre above the height control to a height of 12.83m. There is no explanation for the increase in height. Why it is above 4 Ahearn Avenue which is above it on the hill and why it is 12.83m is very strange	See comments on building height in section 6.1

- Address not stated

Issue	Comment
Exceeds numerous controls	Agreed – it exceeds the building height, wall height and FSR controls, all of which are already exceeded by the approved development. See comments below for height (6.1), FSR (6.2) and wall height (6.8)
Large 9.6m unarticulated building façade on the public boundary	Noted. It is recommended not to approve the infill of the first floor balcony. See section 6.3.
Inaccuracies in plans	The inaccuracies have been noted and corrected
The basement plant and storage were previously requested and rejected	Noted. The basement walls have already been constructed. Not approving those works will not reduce the level of excavation. A condition of consent can be included to prevent the additional area being used for habitable purposes.
Increased FSR leads to bulk to the front, removes articulation and 9.6m high wall to the front and removal of balconies	Noted. See sections 6.2 and 6.3 below
Height is unprecedented Exceeds height control by 3.3m, increasing the existing exceedance	See discussion of height in section 6.1 below
No visual impact statement or assessment for increase in height and removal of balconies.	A visual assessment has been conducted for 17 and 19 Cairo Street. Screening can be conditioned. See section 6.6.
No indication of screening	

Issue	Comment
Proposed top of wall height RL41 to the rear boundary has significantly increased but not noted as an amendment and now exceeds the ground level of the adjoining neighbour at 11 Bloomfield Street. Why and why not shown as an amendment?	It is clear that this wall height has increased. The engineer's letter explains how this arose from an engineering perspective. The shoring wall height increase was required to ensure that the retaining wall for 11 Bloomfield Street was supported. Conditions 31-33 of the consent require support for adjoining land.

### Renotification

Amended plans and documents were received during February and March 2023. These included view analysis for 17 and 19 Cairo Street, amended plans, a letter from the engineers explaining the reasoning behind some of the changes, an addendum to the Statement of Environmental Effects, geotechnical advice, landscape plans and amended shadow diagrams. These documents were renotified and the following 3 submissions were received.

- 4 Ahearn Avenue South Coogee – submission on renotification

Issue	Comment
The enclosure of the balconies will lead to a loss of privacy due to further cross viewing into our living room as well as additional view loss north along the coastline	<p>The balconies are already approved and no further loss of privacy to 4 Ahearn Avenue will result from their enclosure.</p> <p>Re privacy comments in section 6.4</p> <p><b>View Loss</b> See consideration in section 6.6</p>
The proposed increase in building height is excessive and the axonometric drawings show the proposed building height is not of an appropriate scale, does not respond to the topography of the site, extends higher than our dwelling, and is not consistent or compatible with other dwellings in the street.	See consideration of building height in section 6.1
The solar diagrams reveal the impact of the excessive height and bulk with the additional loss of solar access to our north facing windows and rear private open space (in addition to the shadows cast by the approved development). This will have an additional negative impact on our amenity.	<p>The elevational shadows show that there will be some additional overshadowing by the increase in height on the staircase window to the rear between about 9.30am to 1.00pm and there will be an additional approximate 30 minutes at 9.30am before any sunlight reaches these windows at midwinter. Those windows will however retain their solar access for the remainder of the day.</p> <p>The additional height will have a minor reduction in the amount of solar access to the living window from 12.00pm to 3pm although sunlight will be retained to at least half that window to 2pm, and some sunlight will still be had after 3pm. The northern window retains solar access to at least part of the window between 8am to about 3.30pm which is considered acceptable.</p>
The proposal to build the cabana to side boundary with zero side setback and increased height, is unreasonable, has adverse amenity impacts and there is no justification to build on the site boundary	See comments on the cabana in section 6.7.

- 17 Cairo Street South Coogee – submission on renotification

Issue	Comment
The additional height of nearly a metre above the control will be over imposing and out of scale for the area and creates an increase in bulk and scale.	It is agreed that the proposal will lead to an even greater exceedance of the height than is already approved. See section 6.1.
Enclosing the balconies will also create additional bulk and the reasons given do not warrant their enclosure and increases FSR above the control. It sets a precedent in the sensitive coastal area and reduces deep soil area and tree planting	Regarding precedent, each application is assessed on its own merit. The balcony enclosure does lead to an increase in the FSR and it does exceed the control. See discussion under section 6.3. It is recommended that the first floor enclosure is not approved
Lack of screen planting and landscaping to the northern boundary	The Sydney Water pipeline runs inside the northern boundary of the site and has required the elevation of the pathways. Because of its location, the possibilities to have substantial planting in this area are minimal.
Visual impact of increased cabana roof with wall height above the 3.5m maximum in the DCP, no setbacks to the south and west, no screening to the north	See discussion in section 6.7

- 19 Cairo Street South Coogee – Submission on renotification

Issue	Comment
Building height sets a precedent and impacts amenity	Each application is assessed on its own merits. Amenity impacts set out below. See section 6.1 re height
View loss photo has not been done from the first floor balcony as requested.	Agreed that the view loss photo is from the ground floor which demonstrates a very minor increase in view loss of the sea and sky above what is approved. See view loss consideration in section 6.6
Misleading statements made on site by the architect	Noted
Increase in the height of the cabana has a visual impact due to scale. It exceeds the 2.4m wall height control in the DCP. It has no south and west setbacks, no screening to the north.	See discussion on cabana in section 6.7
It is misleading to suggest that the structural adequacy is driving the cabana height increase	Reliance is placed on the advice from the structural engineer.
Enclosure of the balconies sets a precedent for increased FSR in the coastal area	Each application is assessed on its own merits. See discussion in section 6.2 and 6.3.
Little space for deep root zones and tree planting. Canopy trees should be provided	The application complies with the deep soil control. One frangipani tree is proposed in the front setback. Planting in the rear lawn adjacent to the pool could lead to view impacts to 11 Bloomfield Street in future and this is not recommended.
Lack of screening and landscaping to the northern boundary.	The Sydney Water pipeline runs inside the northern boundary of the site and has required the elevation of the pathways. Because of its location, the possibilities to have substantial planting in this area are minimal.
Calculation of deep soil including planters and planting on slabs is misleading and inaccurate to the DCP control	The calculation of deep soil in plan 7.00 does not appear quite correct, however it is estimated at 106.5m <sup>2</sup> or 25.6% of the site and therefore compliant. That figure excludes areas on slabs and is compliant with the DCP requirement of 25%.



D34/23

Issue	Comment
Removal of the privacy screen on the ground floor north elevation.	Noted – see discussion in section 6.4.1 below
The dividing fence should be replaced by the applicant 1.8m from the high side of the boundary	The plans provide for a fence 1.8m high as shown in elevation 6.20 Rev 3
Extension to basement is not objected to but the piling structure has already been carried out including to the lift core and ground floor slabs so is this retrospective approval?	Noted.
Concern about the conflict of interest and whether previous consents were provided with adequate independence	The conflict arises with the building designer. The original approval used a different architect. This assessment is being undertaken by an independent assessor who has no connection with the designer or the applicants.
A large crane is installed on the site which swings over 17-23 Cairo Street with no consent. A certificate of currency for insurance is required and evidence of training and certification from the crane operators	These matters are not relevant to assessment of this application. The concerns were raised with Council's compliance section.

## 6. Key Issues

The advice from CPM Engineering dated 8 February 2023 provides engineering explanations as to why many of the proposed modifications are sought. It would have assisted both the assessment and the neighbours if such an explanation was provided when the application was lodged. Many of the changes result from two matters:

- The shoring of the site was challenging and required a number of design considerations to ensure that the adjacent properties were adequately supported during and following excavation. Those challenges have amended the shoring walls, and additional works at 11 Bloomfield Street also required some design changes. The amendments to the cabana arise largely to allow it to be used as a permanent restraint for the shoring walls.
- The Sydney Water manholes and sewer along the northern boundary were found to be considerably higher than as interpolated from the Sydney Water asset diagrams, which has resulted in the slight relocation of the lift and changes to the levels along the northern boundary pathways. The design is stated to have been done to satisfy the requirements of multiple Sydney Water approvals.

The third major change is the infill of the balconies which CPM Engineering state partly results from the relocation of the lift shaft. The applicants also advise that, having lived in the house before it was demolished, the winds make sitting on the balcony unpleasant and the eastern balcony space would be more useful enclosed as has occurred in many homes along this part of the coastline.

### 6.1 Building height exceedance

The height exceedance is calculated to be 3.37m. Some of the height exceedance arises because the previous FFL of the original garage was cut into the site, leading to the ground level existing from which the height is measured being at RL28.0. However, in the location where the leading edge of the proposed roof is at its highest, the adjoining natural ground level beyond the previous house footprint was approximately RL30.3 on the northern side. Were that level taken as the ground level existing the height to RL40.88 would be 10.58m – a variation of 1.08m (11.4%). The approved height (to RL40.03) would be 9.73m, giving an exceedance of 0.23m or a 2.4% variation.

Approximately 500mm of the additional 850mm in height arises from increasing the floor to ceiling heights of the ground and second floor levels to 2.6m. There has been a reduction in the floor to ceiling height of the basement although a substantial slab between the basement and ground floor has generally retained the approximate approved floor levels. The engineers advise that the ground floor slab forms part of the structural support for the site.

It appears the remaining increase of about 350mm is to achieve a lift core which is within the building roofline. The lift is at the point of the greatest height exceedance and the engineers advise that it is required to be slightly relocated due to the Sydney Water regulations concerning the existing sewer.

Increasing the floor to ceiling heights to 2.6m is supported, given that the ideal height under the RDCP 2013 is 2.7m. The option to reduce the overall roof other than the lift by approximately 350mm would not improve view loss and overshadowing impacts in any significant manner, given that these additional impacts are very slight already. It is agreed with the applicant that this would lead to a less resolved roof line than is proposed.

Although the additional height is a regrettable aspect of the modification application, the justifications provided are considered to be reasonable in the circumstances of this site with complex engineering requirements and a significant infrastructure asset.

## 6.2 FSR exceedance

As part of the request for further information, the applicant was advised to recalculate the GFA and hence FSR so as to appropriately include the staircases at every second level and the lift at one level. The original plans also did not include the additional GFA from the approved garage which exceeds the standard size for a garage under the DCP. This meant that the FSR approved under Mod B was incorrectly stated to be 322.1m<sup>2</sup> (FSR of 0.77:1) when in fact the approved GFA was more like 357.2m<sup>2</sup> or 0.86:1.

The proposed GFA is 365.2m<sup>2</sup> with an FSR of 0.87:1 – an increase of 8m<sup>2</sup> over the approved Mod B. The originally approved plans included a GFA of 312.19m<sup>2</sup> and FSR of 0.75:1. It is unclear whether that was correctly calculated.

The modification application removes approximately 17.3m<sup>2</sup> GFA from the cabana. The additional GFA from the infilled balconies on the ground and first floors is not specified in the plans. In the discussion in section 6.3 below it is estimated that the infill of the first floor balcony accounts for approximately 14m<sup>2</sup> of additional GFA.

For the reasons set out in section 6.3, it is recommended that the first floor balcony infill is not approved, which will result in a slight reduction in the GFA of the approved development of about 6m<sup>2</sup> from that already approved.

In essence, provided that the cabana is conditioned not to allow for being able to be habitable space, and the additional basement space remains as plant and equipment and storage, the increase in FSR is relatively small from the approved Mod B. With the refusal of the infill of the first floor balconies, the GFA (and FSR) can actually be slightly reduced from that which is approved.

## 6.3 Façade impact by enclosure of balconies and streetscape

### 6.3.1 History of the balconies

The original dwelling on the site included an enclosed balcony which generally hugged the front boundary on the elevated ground floor level.

The original approval included rectangular balconies on the ground and first floor on the eastern side of 2.4m x 4.8m extending a little under half of the frontage. Modification B approved extended balconies on the ground and first floor which largely hugged the front boundary line and extended across the majority of the dwelling frontage – tapering towards the south. On the northern side the balconies included full height privacy screening. Glass balustrading was approved to the east (front) façade with full height glazed sliding doors behind.

The amended Mod C plans propose full enclosure of the two balconies with an off form concrete base of approximately 0.5m up to 0.8m in the north-east, with fixed glazing above. An operable window is proposed on the front façade of the ground floor bedroom and ensuite. No operable windows are proposed on the front elevation of the first floor.

The Mod C Rev 2 plans have included an amended void area above the stairs from the lower ground floor. An operable window is proposed above the stairwell, however it is unclear how that could be operated given the void adjacent to it. There is no other ventilation to the family room on the ground level which is unsatisfactory.

The proposed enclosed balcony on the first floor level is to the living/dining room. There is a small operable window on the northern side next to the lift and another small operable window opposite on the southern side. There are extensive operable windows and doors on the western side of this floor level, but no operable windows on the eastern (front) elevation).

#### 6.3.2 Balcony development in the vicinity

The applicants indicate that they are seeking the infill of the balconies because the coastal winds make the balconies too uncomfortable to use. They also state that there are many infilled balconies in the vicinity for the same reason. There is a mix of balconies and enclosed balconies in the area (see **figures 9 and 10** below). On the newly constructed/renovated sites:

- Sites with open balconies to the street are 10, 12, 16 and 18 Alexandria Parade, 2 Ahearn Avenue, 6 and 8 Bloomfield Street.
- 12 Alexandria Parade has no balconies other than a small balcony on the northern side to Ahearn Avenue.
- 3 and 4 Ahearn Avenue each have one level with an infilled balcony and one open balcony level. 3 Ahearn Avenue's enclosed balcony is the elevated ground floor bedroom level at RL34.78. The enclosure was approved as part of DA/408/2021.
- 4 Ahearn Avenue's enclosed balcony level is at RL34.88 and is the upper living room level. It was enclosed prior to the recent renovations as well.



**Figure 9:** 3 Ahearn Avenue (left) and 4 Ahearn Avenue (right), each with one level of enclosed balconies (Photo taken 17 January 2023)





**Figure 10:** 6 and 8 Bloomfield Street (taken 9 December 2022)

### 6.3.3 Balcony GFA

The infill of the first floor balcony adds approximately 14m<sup>2</sup> to the GFA. The GFA already has an approved exceedance of 45m<sup>2</sup> (noting that the GFA was incorrectly calculated when assessed). The application seeks an additional 8m<sup>2</sup> exceedance. That exceedance arises largely from the infill of the balconies, less the reduction in the cabana GFA.

### 6.3.4 Foreshore scenic protection area under the RLEP 2012

The site is within the foreshore scenic protection area in clause 6.7 of the RLEP 2012. It has a prominent position looking to the west from the foreshore path along Alexandria Parade and the dwelling will be viewed in conjunction with 4 Ahearn Avenue to the south. The objectives of the foreshore scenic protection area are:

- (a) *to recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,*
- (b) *to protect and improve visually prominent areas adjoining the coastal foreshore,*
- (c) *to protect significant public views to and from the coast,*
- (d) *to ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.*

The RLEP control in section 6.7(3) requires the consent authority to be satisfied that the development is

- (a) *is located and designed to minimise its visual impact on public areas of the coastline, including views to and from the coast, foreshore reserves, open space and public areas, and*
- (b) *contributes to the scenic quality of the coastal foreshore.*

### 6.3.5 Chapter 2 of SEPP (Resilience and Hazards) 2021 – Coastal Management

The site is within the coastal environment area and coastal use area under Chapter 2 – Coastal Management of the SEPP (Resilience and Hazards) 2021. It is not considered that the proposal will have any adverse impacts on the matters set out in section 2.10(1) of the SEPP relating to the coastal environment area.

The proposal has the possibility of impacting on the visual amenity and scenic qualities of the coast which is required to be considered in relation to the coastal use area. Under section 2.11 (1)(c) the consent authority is also required to take into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

#### 6.3.6 Recommendation

It is considered that 3 and 4 Ahearn Avenue achieve the objectives of the foreshore scenic protection clause and adequate consideration of the requirements relating to the coastal use area by providing some level of articulation to the front façade which is visible from the coastal foreshore. It is considered that if both levels of 5 Ahearn Avenue are enclosed there will be insufficient articulation to meet the objectives and controls of clause 6.7 of RLEP 2012, and the proposal will not have been designed to manage and minimize impacts on the coastal use area. Additionally, enclosure of both balconies will also be inconsistent with the balcony enclosures recently approved at 3 and 4 Ahearn Avenue.

It is therefore considered that one of the levels should remain as an open balcony. The ground floor level proposal now incorporates the stairs from the lower ground floor which would complicate opening this level up. The first floor is the upper floor and more likely to present as overpowering to the street with the balcony enclosures.

It is therefore recommended that the enclosure of the balcony on the first floor not be approved for the following reasons:

- Reduction in the already approved exceeding GFA;
- Improved articulation to the front façade having regard to its location virtually on the front boundary line and the improvement in setback to the glass façade by having the first floor windows set back off the boundary;
- It will reduce the appearance of bulk, scale and size from the streetscape;
- It is compatible with the balcony enclosures of the recently renovated 3 and 4 Ahearn Avenue;
- Greater compliance with the objectives and controls of clause 6.7 of the RLEP 2012 regarding the foreshore scenic protection area; and
- It demonstrates appropriate regard to the potential impacts on the coastal use area under SEPP (Resilience and Hazards) 2021.

Retention of the sliding doors to the first floor (as approved) will also enable additional ventilation when required.

Additionally, it is unacceptable to have no accessible ventilation for the family room on the ground floor and at least one operable window should be included in the front façade.

## **6.4 Privacy**

Privacy issues have been raised by submitters about a number of aspects of the proposal:

### 6.4.1 Privacy screening to the north

Privacy from the site has been improved with the removal of the approved north facing windows on the first and second floor and the removal of a fully glazed lift.

#### (a) 2<sup>nd</sup> floor balcony

Condition 2(b) of the Mod B consent required the northern side of the second floor balcony to be provided with a 1.6m high privacy screen. The Rev 2 and Rev 3 plans now include this screen.

#### (b) Ground floor windows

The approved Mod B plans include external louvres to the northern elevation of the ground floor balcony. That balcony is sought to be infilled as GFA for the family room with the louvres removed in this area but a window included. The Rev 2 plans have created a wall and void to the area above

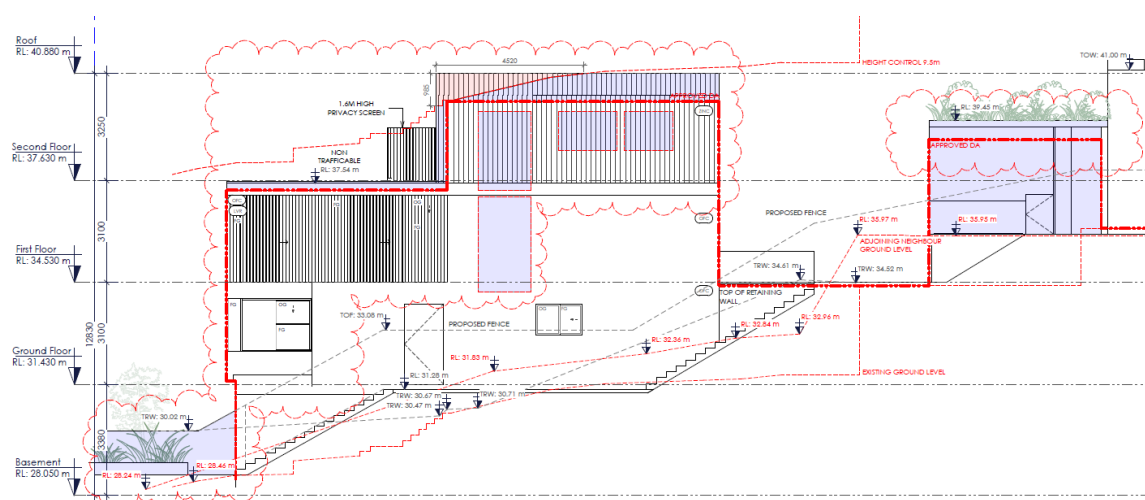


the stairs in this location so that a person standing in the family room adjacent to the void will be approximately 1.3m from the northern window. The FFL of the ground floor family room is proposed at RL31.43.

The rear yard of 23 Cairo Street has had recent work which elevates the adjoining part of its yard above its natural ground level to approximately RL29.5. This has resulted in the fence on the site at RL30.47 being only about 1m above the new garden bed of 23 Cairo Street. The finished floor level of 23 Cairo Street is at RL29.19 and the central part of the rear yard is about 1.2m below that. The proposed ground floor window will therefore look down onto 23 Cairo Street irrespective of the elevation of the rear garden. This window is about 1.6m from the boundary.

The northern elevation (see excerpt in **Figure 11** below) indicates that a fence in this location is proposed to fall from RL33.08 to RL 30.02 in line with the external stairs. Opposite the family room northern window, the fence will be significantly below the family room window at about RL31.8. The fence will provide privacy to 23 Cairo Street from the stairs, however there will be nothing to prevent overlooking into 23 Cairo Street from the family room window.

The original approval in condition 2(a) requires external louvres over this window to be evenly spaced to avoid overlooking into neighbouring properties. It is considered that louvres ought to be retained over this window notwithstanding the void area proposed in the plans.



**Figure 11:** North elevation s4.55 – 06.20 Rev 3

The residents were concerned about the screening illustrated on the plans on the northern first floor dining room. This is the area currently approved under Mod B as the balcony and dining. The Mod C Rev 1 plans appeared to illustrate battens, notwithstanding the condition in DA/490/2015 requiring all external louvres to the side elevations to be evenly spaced and angled to prevent overlooking into neighbouring properties. The first floor plans in Rev 2 and 3 do now illustrate angled louvres, although the condition 2(a) should remain in the consent. It is recommended that the infill of the balcony on the first floor is not approved, however the privacy screening to the balcony should remain.

The kitchen deck on the first floor is at RL34.53. It is opposite 21 Cairo Street's rear yard at a distance of approximately 2.4m from the boundary. 21 Cairo Street has the rear yard at approximately RL32.5 – 2m below the kitchen deck. The proposed fence will not obscure some of the views to 21 Cairo Street because some of the deck is well above the fenceline. A privacy screen to 1.6m should be applied to the northern side of the kitchen deck.

#### 6.4.2 Privacy to the south

4 Ahearn Avenue has fixed louvres to the first floor balcony looking towards the site with a FFL of RL32.15. The finished floor level of the second floor living room of 4 Ahearn Avenue is at RL 34.88. A window to the north with a sill of RL 35.94 and height to RL37.27 looks directly to the south elevation of the site.

The original application approved a fixed clear glass window to the walk-in-robe on the ground floor without screening. On the first floor, windows were approved to the living room on the southern elevation with fixed louvres to prevent overlooking.

Mod B removed the ground floor glazing to the robe/ensuite. It approved an operable window without louvres on the first floor living room at a FFL of RL34.23 opposite 4 Ahearn Avenue's second floor living window.

Mod C now seeks two windows on the southern corner of the ground floor. It is proposed that the ensuite on the ground floor (FFL at RL31.43) has a fixed clear glazed, near full height, window on the south and front façade with an additional operable window on the front (east) façade. No privacy protections are proposed. The first floor balcony fixed louvres of 4 Ahearn Avenue (at a FFL of RL32.15) opposite this window point down and with the height difference could probably see straight into the ensuite. The ensuite is also on the front boundary with potential overlooking from those using Ahearn Avenue. Privacy protections will be required to the ensuite and it is recommended that translucent or opaque glazing to a height of 1.6m be conditioned for all windows in the ensuite on the ground floor.

Additionally, on the first floor (with an FFL at RL34.53), Mod C seeks a fixed and operable window on the south side of the living room with no louvres and clear glazing. This window will look directly into the existing living room window of 4 Ahearn Avenue and privacy protections will be required. It is recommended that the originally approved fixed louvres be reinstated as originally approved for this first floor window on the southern elevation.

#### 6.4.3 Privacy to the east/south corner

The east elevation faces the street. The ground floor at RL31.43 incorporates windows literally on the boundary to the ensuite. The street level in this area will be at approximately RL28.2. The entry to 4 Ahearn Avenue at this corner is at approximately RL29.12 and the FFL of the first floor is at RL32.15. There is a privacy screen to the balcony on 4 Ahearn Avenue's first floor, however they point down and with the height difference could probably see straight into the ensuite. The plans do not indicate any screen or translucent glazing. Conditions requiring translucent or obscure glazing to 1.6m on the east and southern ground floor ensuite windows will be required to ensure privacy from the street and 4 Ahearn Avenue for those using the ensuite.

#### 6.4.4 Privacy to the west

Condition 2(c) of the Mod B consent required the windows on the second floor western elevation servicing the ensuite to be obscured. The Rev 2 plans still do not provide for this and this condition remains applicable and should be retained.

### **6.5 Landscaping**

The applicant originally sought to include a rainwater tank next to the proposed outdoor shower. The Rev 2 plans have now located this under the landing to the laundry, therefore not impacting on deep soil. The outdoor shower is to be within a planted area.

The bins are to be stored within the storage area in the garage rather than in the front setback, which improves the streetscape.

The Rev 1 plans lodged for Mod C removed the roof garden on the top of the cabana. This has been reinstated in the Rev 2 plans and plantings included within the proposed landscape plans.

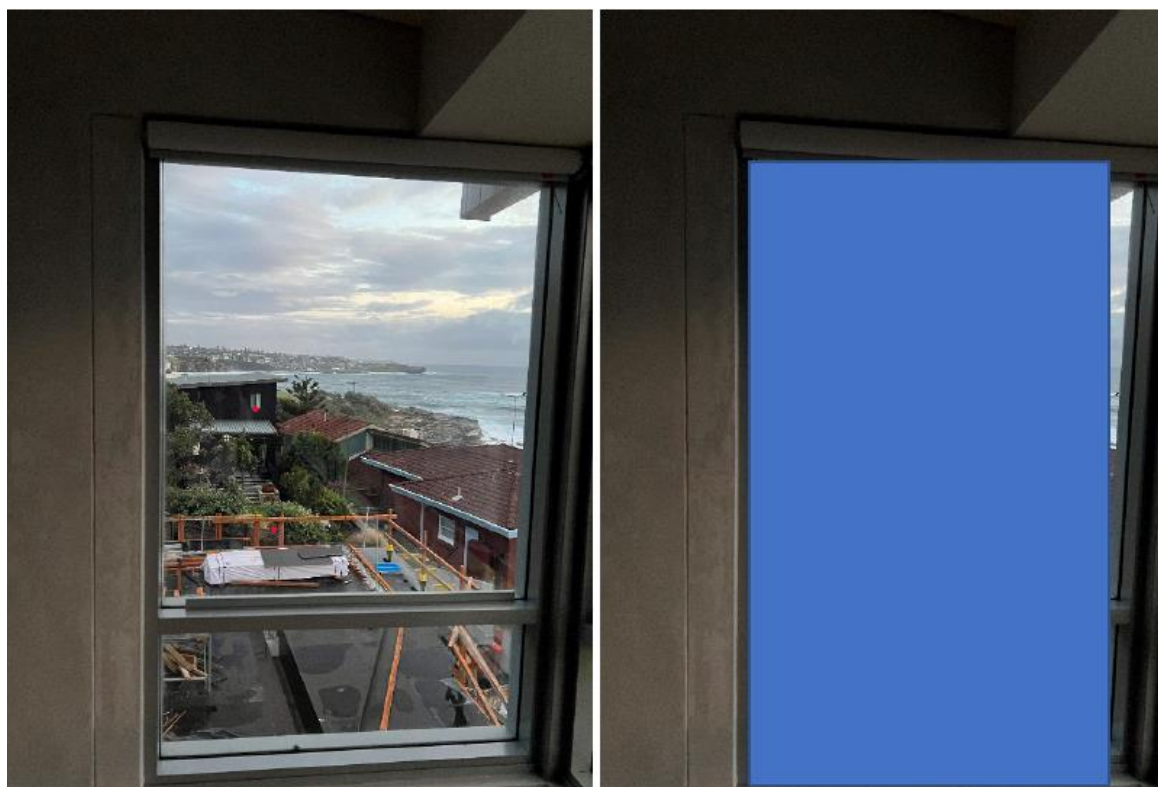
Landscape plans have been provided by Baldwin Botanical Design. It is recommended that these form part of the approved documentation.

### **6.6 View loss**

A view sharing assessment was conducted by the assessing officer for the original proposal in accordance with the Land and Environment Court planning principle of *Roseth SC* pp.25-29 in *Tenacity Consulting v Warringah* [2004] NSWLEC 140. It concluded as follows:

- The views are iconic
- Views from the properties to the west are unaffected
- Views from **4 Ahearn Avenue** are to the north to Shark Point, Burrows Reserve and the northern headland of Gordon's Bay and a panorama of the ocean and horizon to the north-east and east, which includes Wedding Cake Island. They are obtained from the upper living room from a sitting and standing position. Following the erection of a height pole on the south eastern corner of the site it was concluded that the western portion of the view to the north will be restricted including the northern shore-line of Gordon's Bay. Views to Shark Point, Burrows Reserve, Wedding Cake Island, considered to be iconic views, as well as the ocean panorama to the east would remain unaffected. View-loss from this property is minor.
- Views from **17 Cairo Street** are from the kitchen to the south-east over the site to Jack Vanny Reserve and the southern headland of Lurline Bay. From the back terrace, there is a panorama of the ocean and horizon to the east. The views are obtained from a standing and sitting position. It was concluded that the original proposal would partly obstruct and partly reveal a view south-east to the southern headland of Lurline Bay from the kitchen. The view to Jack Vanny reserve from the kitchen would be obstructed. The ocean panorama to the east from the back terrace would be retained. View-loss from this property is minor.
- Views from **11 Bloomfield Street** are from the lower living room and terrace to the north-east over the site to Shark Point, Burrows Reserve, the northern headland of Gordon's Bay, Trenerry Reserve and Wedding Cake Island. There is also a panorama of the ocean and horizon to the east and south-east, which includes the southern headland of Lurline Bay. The views are obtained from a standing and sitting position. It was concluded that the building would be too low to interrupt the valuable components of the view.

A number of submitters raised view loss as a concern in relation to this modification. As a result, a view loss assessment was requested and provided for 17 and 19 Cairo Street and these are set out below:



**Figure 12:** Potential view loss from the northern living room of 4 Ahearn Avenue as provided by the owners of 4 Ahearn Avenue.



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**Figure 13:** View loss from 17 Cairo Street provided by the applicant with the modifications in green to the shaded approved development



**Figure 14:** View loss from 19 Cairo Street provided by the applicant with the modifications in green to the shaded approved development

The owners of 19 Cairo Street are concerned that no view assessment was conducted from their first floor balcony. A photograph from the first floor balcony of 19 Cairo Street is in Figure 15.



**Figure 15:** View from the first floor balcony of 19 Cairo Street (9 December 2022)

Assessment under the *Tenacity* principles indicates:

- Step 1: Assessment of views:
  - **4 Ahearn Avenue.** The views affected are the view from the living room window looking north to Trenery Reserve, Gordons Bay and Shark Point. Views which are unaffected are the views to the east to Wedding Cake Island, and the ocean panorama. From some angles the view to Wedding Cake Island from the north window will be lost, however it will be retained from the eastern windows. Wedding Cake Island is considered an iconic view.
  - **17 Cairo Street.** The views affected are to the south-east and are of the ocean /land interface above the roof of 4 Ahearn Avenue with additional ocean to the north of 4 Ahearn Avenue.
  - **19 Cairo Street.** The views affected are to the south-east and are of the ocean /land interface above the roofs of 2 and 4 Ahearn Avenue to Maroubra Headland.
- Step 2: From what part of the properties are views obtained?
  - **4 Ahearn Avenue:** The impacted views are from the living room over the side boundary from a sitting and standing viewpoint.
  - **17 Cairo Street.** The impacted views are from the living area, balcony and rear yard over a rear boundary from a standing position.
  - **19 Cairo Street.** The impacted views are from the ground floor and first floor balconies, and the first floor living/dining area. From the rear yard views to a small section of the water will be impacted. Views are from a standing position.
- Step 3: Extent of the impact – from the whole of the property
  - **4 Ahearn Avenue.** The loss of views from the north window to Trenery Reserve, Gordons Bay and Shark Point will be total. However the modification will have no impact on that view loss as that has already been approved. The retained view from the expansive windows which looks to the east over the ocean will be retained in full, including the vista to Wedding Cake Island. On balance, taking into consideration the retention of the eastern views the view loss for the whole of the property is moderate. However that view loss is already approved and the increase in height and enclosure of the balconies will not further impact on the view loss.
  - **17 Cairo Street.** The view loss from the proposal will be of a very small land ocean interface from some viewpoints, and of some ocean. The site will retain panoramic views to the ocean to the east and to the north and north-east to Wedding Cake



Island, Trenery Reserve and Shark Point. The view loss is considered to be minor to negligible in the context of the whole site. It is further noted that the ocean/land interface and the majority of the ocean water loss is already lost by virtue of the approved development. The additional height will cause a minor loss of sky.

- **19 Cairo Street.** The dwelling enjoys expansive views to the north and north-east to Trenery Reserve, Gordons Bay, Shark Point and Wedding Cake Island, and panoramic views to the ocean to the east over the roof of 21 Cairo Street. To the south-east it enjoys views to the Maroubra headland over the roof of 2 and 4 Ahearn Avenue. Taking into account the retained views, the view loss is considered to be minor. The view loss assessment is taken from the rear yard and indicates that there is a very minor headland view which is already lost by the approved development and that the additional height merely loses some additional sky. Photographs from other parts of the site indicate that the view to Maroubra Headland is currently slightly greater than that shown in the visual assessment of the applicant.

Some conclusions can be drawn from Figure 8\* from the first floor balcony notwithstanding the lack of a view analysis from the applicant. The approved development is higher than 4 Ahearn Avenue by 0.41m and it is closer to the balcony of 19 Cairo Street than 4 Ahearn Avenue. The visual impact assessment provided by the applicant also indicates that the second floor of the approved development extends further to the east than the roof of 2 Ahearn Avenue from the viewpoint of 19 Cairo Street. It is therefore likely that the majority of the headland visible in **Figure 14** is already blocked by the approved development. The additional height will merely block some additional sky above that headland. No further view loss will arise from the enclosure of the balconies.

- **Step 4: Reasonableness of the proposal**  
The elements of the modification proposal which impacts views is potentially the increase in height, the extension of the second floor to the east, and enclosure of the balconies. The height already exceeds the LEP height control. The approved development already is non-compliant with the front setback controls. The approved development's front setback is similar to the dwelling which has now been demolished.

The analysis above indicates that there will be no additional view loss for 4 Ahearn Avenue as a result of the modification. For 17 and 19 Cairo Street there will be a small reduction in the amount of sky above the development which will result from the proposed increase in height. These proposed additional view loss impacts are considered to be negligible.

The height is not compliant with the height control and the proposal also exceeds the FSR control. A reduction in the height would reduce that negligible additional view impact, however the gain is not considered to be such that it warrants the amendment to the proposed modifications from a view analysis perspective.

In summary, the view loss resulting from the proposed modification is considered negligible with extensive views being retained by all properties over more valuable vistas of Wedding Cake Island, and the ocean. Whilst 4 Ahearn Avenue will lose its view to the north to Trenery Reserve and Shark Point, that view loss has already been approved and is unaffected by the proposal. The proposal is considered reasonable from a view loss perspective.

## 6.7 Cabana

The cabana is to be amended from an enclosed room set back off the boundaries to an open shelter (still with bathroom) which will be effectively used to buttress and provide stability to the site and the piling. The information from CPM Engineering explains that the additional height of the rear shoring walls results in an increase to the overturning moment on the wall. Temporary steel bracing is currently in place, however the cabana structure is stated to be required to act as a permanent restraint for the rear shoring walls and the return walls along the southern side.

Although this requires an increase in height, the Rev 2 plans have reinstated the approved green roof. This will provide some level of visual relief to 11 Bloomfield Street and from the pool area of 4

Ahearn Avenue. The cabana roof will likely be above the sight line from 21 Cairo Street and from the rear yard of 19 Cairo Street but may provide some visual interest from the first floor of 19 Cairo Street.

The RDCP Part C1 section 7.4 includes a maximum wall height of 2.4m and maximum height of 3.6m for outbuildings. Setbacks are not required to boundaries except in circumstances which are not relevant. There are no setbacks to the boundaries on the south and west side (other than as a result of the piling). The height of the proposed cabana is 3.45m – below the RDCP maximum height. Although its south and west walls exceed the DCP wall height control, these walls are already constructed as part of the shoring and piling. The coping level and lawn for the new pool at 4 Ahearn Avenue is at RL37.97 which is above the proposed ground level of the cabana and pool deck at RL36.0. The side fence for the 4 Ahearn Avenue pool is at R:39.17. The cabana roof at RL39.45 will therefore be 280mm above the dividing fence. The roof will be landscaped and is unlikely to impact on views from this area. No additional overshadowing arises from the proposed cabana roof over 4 Ahearn Avenue.

Although the cabana roof is now of a considerable size, there are no limits to the overall area of outbuildings in the DCP. The site meets the site coverage control in the RDCP. No additional impacts will arise from the increase in area and height of the cabana roof, and it will remain as a green roof. The roof has been designed to have an integral role in the engineering of the site, and for these reasons it is considered acceptable. It is recommended that, if approved, conditions of consent require that the cabana not be enclosed to provide additional GFA, given the already high exceedance of the control.

## 6.8 Wall height

The dwelling was approved with a maximum wall height of 9.5m (above the RDCP 2013 control of 8.0m). No change to this arose under Mod B. Mod C now seeks to increase this by approximately 0.85m to 10.35m. The wall height increase in the main arises from an increase in the floor to ceiling heights of the ground, first and second floors and increase in the building height to accommodate the lift overrun. Whilst the building increase in height will increase the bulk of the building, there are no substantive impacts on overshadowing, or view loss arising from the additional exceedance. Because of the elevation of the rear yards of the northern neighbours above the site, at its highest the wall height is approximately 9.06m higher than the land on the neighbouring boundary between 21 and 23 Cairo Street and the site. At the dwelling's north-west corner it will be approximately 8.04m above the ground level of 21 Cairo Street's rear yard, or a wall height from the 2007 survey of approximately 9.21m.

The exceedance is not ideal. It is explained by the applicant as arising to encompass the lift overrun, but clearly also encompasses the slight increase in floor to ceiling heights. Analysis has demonstrated that there are no significant adverse view loss or overshadowing impacts arising from the wall height increase.

The objective of the wall height control in the RDCP is to ensure a suitable scale to the street and contribute to its character, to ensure there are no unreasonable impacts on neighbours and to ensure form and massing respects the topography of the site. The second floor is setback from the street and will be viewed from the street largely from below (given the steep slope of the street). The wall height exceedance on the northern side is the less visible from the street than the east and southern elevations. On balance the exceedance is acceptable.

## 7. Referral comments

### Engineering:

This report is based on the following plans and documentation:

- Amended Architectural Plans by Pinnacle Design Studio dated 23.08.22;
- Statement of Environmental Effects by ABC Planning.

Modifications to the Development Consent include amendments to the layout of the various floor levels of the dwelling as well as to the pool and cabana area at the rear of the site.

Development Engineering has reviewed the amended/modified plans for the proposed new dwelling and advises that there are no Amended/Additional Development Consent Conditions required in relation to this S4.55 application.

## 8. Section 4.15 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	<p><b>State Environment Planning Policy (Building Sustainability Index: BASIX) 2004.</b></p> <p>Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX were included in the original determination.</p> <p>The applicant has submitted a new BASIX certificate. The plans have been checked with regard to this new certificate and they are consistent with the requirements indicated for DA stage. Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX were included in the original determination.</p> <p><b>Randwick Local Environmental Plan 2012</b></p> <p>The proposed modifications are ancillary to the approved development, which will remain substantially the same. The development remains consistent with the general aims and objectives of the RLEP 2012.</p>
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	The proposed amendments to the RLEP 2012 as exhibited do not impact upon the proposed modification.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	Those non-compliances are generally already approved and the proposal will have some aspects where non-compliance is increased. However on balance, with the recommended conditions, it is considered that the objectives and controls of the RDCP 2013 are generally met.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The proposed modifications have responded appropriately to the relevant planning controls and will not result in any significant adverse environmental, social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	<p>The site has been assessed as being suitable for the development in the original development consent.</p> <p>The modified development will remain substantially the same as the originally approved development and is considered to generally meet</p>

Section 4.15 'Matters for Consideration'	Comments
	the relevant objectives and performance requirements in the RDCP 2013 and RLEP 2012. Further, the proposed modifications will not adversely affect the character or amenity of the locality.  Therefore the site remains suitable for the modified 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.

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## 9. Conclusion

The application is recommended for approval for the following reasons:

- a) The proposed modifications are considered to result in a development that is substantially the same as the previously approved development.
- b) The modified development will not result in significant adverse environmental impacts upon the amenity and character of the locality.
- c) The site is a difficult one from an engineering perspective and with the existing Sydney Water asset and the majority of the proposed modifications flow from changes that have resulted to overcome difficulties arising from satisfying condition 31 of the current approval regarding the support of adjoining land, and condition 10 regarding works to be carried out in accordance with the requirements of Sydney Water.
- d) The proposed conditions improve the privacy provisions for the neighbours.

The proposed modification to enclose the first floor balcony is not supported for the following reasons:

- Reduction in the already approved exceeding GFA;
- Improved articulation to the front façade having regard to its location virtually on the front boundary line and the improvement in setback to the glass façade by having the first floor windows set back off the boundary;
- It will reduce the appearance of bulk, scale and size from the streetscape;
- It is compatible with the balcony enclosures of the recently renovated 3 and 4 Ahearn Avenue;
- Greater compliance with the objectives and controls of clause 6.7 of the RLEP 2012 regarding the foreshore scenic protection area; and
- It demonstrates appropriate regard to the potential impacts on the coastal use area under SEPP (Resilience and Hazards) 2021.

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**Responsible officer:** Urban Perspectives, Town Planners

**File Reference:** DA/490/2015/C





## Development Application Report No. D35/23

**Subject:** 7 Inman Street, Maroubra (DA/592/2022)

### Executive Summary

<b>Proposal:</b>	Alteration and additions to the dwelling approved under DA315/2020 & DA315/2020/A, including construction of a roof terrace and extending the approved cabana.
<b>Ward:</b>	Central Ward
<b>Applicant:</b>	Alec Pappas Architects Pty Ltd
<b>Owner:</b>	The Owners - Strata Plan No 14795
<b>Cost of works:</b>	\$47,300
<b>Reason for referral:</b>	10 or more unique submissions by way of objection were received

### Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 592/2022 for alteration and additions to the dwelling approved under DA/315/2020 & DA/315/2020/A, including construction of a roof terrace, and extending the approved cabana, at No. 7 Inman Street, Maroubra, for the following reasons:

1. The proposal does not comply with the provisions of the Randwick Local Environmental Plan 2012 (RLEP) in particular:
  - a. The proposal is inconsistent with the objectives of the R2 Low-Density Residential land use zone.
  - b. The proposal is non-compliant with the maximum Building Height applicable to the site pursuant to Clause 4.3.
  - c. The proposal has not adequately demonstrated that Clause 4.6 has been satisfied, in that compliance with the building height standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify contravening the development standard.
  - d. The proposal is inconsistent with the objectives of Clause 6.7 in relation to Foreshore Scenic Protection Area.
2. The proposal does not comply with the provision of Randwick Comprehensive Development Control Plan 2013 (RDCP 2013) in particular:
  - a. Pursuant to Section B10 of Part B, the proposal is inconsistent with the controls and objectives of the Foreshore Scenic Protection Area.
  - b. Pursuant to Control (i) of Section 2.3, Part C1, the proposal has not demonstrated compliance with site coverage.
  - c. Pursuant to Control (i) of Section 3.2, Part C1, the proposal does not comply with building wall height.
  - d. Pursuant to Controls (i) and (ii) of Section 4.4, Part C1, the proposal does not comply with the design controls for rooftop terraces.
  - e. Pursuant to Section 5.1, Part C1, the proposal has not demonstrated that adequate solar access will be provided to neighbouring development.
  - f. Pursuant to Section 5.3, Part C1, the proposal has not demonstrated that the visual privacy of adjoining properties is retained.
  - g. Pursuant to Section 5.4, Part C1, the proposal has not demonstrated that the acoustic privacy of adjoining properties is retained.
  - h. Pursuant to Section 5.6, Part C1, the proposal has not adequately addressed view-sharing with neighbouring properties.
3. Pursuant to Section 4.15(1)(b) of the Environmental Planning & Assessment Act 1979, the application has not demonstrated that the development does not impact the natural or built environment or that it does not result in adverse social or economic impacts.

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4. Pursuant to Section 4.15(1)(c) of the Environmental Planning & Assessment Act 1979, the application has not demonstrated that the subject site is suitable for the development.
5. Pursuant to Section 4.15(1)(d) of the Environmental Planning & Assessment Act 1979, the application has not demonstrated that the development is in the public interest.

**Attachment/s:**

Nil

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## 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 alterations and additions to an approved dwelling issued under DA/315/2020 and DA/315/2020/A including construction of a new roof terrace and extending the approved cabana.

The key issues associated with the proposal relate to exceeding the maximum 9.5m height limit applying to the site under Randwick Local Environmental Plan (LEP) 2012; non-compliance with the external wall height control and inconsistency with the roof design controls under Randwick Comprehensive Development Control Plan (DCP) 2013; and insufficient information being submitted to address potential view loss from the public domain and nearby residential properties, site coverage, increased overshadowing, and visual and acoustic privacy impacts for the development and adjoining properties.

The proposal is recommended for refusal, noting that the applicant has lodged a Class 1 Appeal on 8 February 2023 against the deemed refusal of DA/592/2022.

## 2. Site Description and Locality

The subject site is known as 7 Inman Street, Maroubra and is legally described as Lots 1 & 2 in SP 14795 within Lot 8 in DP 9106. The site is 531.7m<sup>2</sup>, is regular in shape and has a 11.885m frontage to Inman Street to the north-west. The original building on site has been demolished and construction of the new dwelling has commenced.

The site slopes in a south-west to north-east direction by approximately 1m, taken from existing levels along the front boundary.

The site is located within a residential area characterised by mixture of detached one to three storey dwelling houses including dual occupancy developments of varying scale and architectural design.

Adjoining the site to the north is a 2-storey dwelling with a garage beneath. This property is known as No 5 Inman Street. Adjoining the site to the south is a 2-storey dwelling. This property is known as No 9 Inman Street.

Development to the east consists of a 2 storey dwelling, being the rear boundary and is known as 14 Undine Street. To the west, opposite the site, dwellings vary in height of both single and two storeys in form.

### 3. Relevant history

DA Number	Status	Description of Works
DA/315/2020	Approved – 17/03/2021	Demolition of existing structures and construction of a two-storey dwelling house with semi-basement, detached cabana and swimming pool at the rear, landscaping, fencing and associated works.
DA/315/2020	Approved – 06/01/2022	Section 8.2 Review: review Conditions 2(a) – (m).
DA/315/2020/A	Approved – 02/05/2022	S4.55(1A) Modification of approved development to: Expand the lower ground floor basement for storage, additional parking and wine cellar, internal ground floor plan changes, internal first floor plan changes.

This current proposal seeks to amend the previous approvals issued for the site, by way of a new roof terrace and extending the approved cabana.

### 4. Proposal

Development Application DA/592/2022 proposes alterations and additions to an approved new dwelling issued under DA/315/2020 at 7 Inman Street, Maroubra. The proposed development involves the following works:

- (a) Removal of the raised parapet on the roof.
- (b) Construction of a roof top terrace above the dwelling with clear balustrades along the edges and an awning.
- (c) Extending the internal stairs and lift from the first floor to access the proposed roof terrace.
- (d) Extending the cabana at the rear of the site to the west.
- (e) Reconfigure the layout of the WC and pool pump at the rear of the cabana.

### 5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development between 25 November 2022 to 9 December 2022 for fourteen (14) days, in accordance with the Randwick Council's Community Engagement Strategy. Thirteen (13) unique submissions from or on behalf of the following properties were received as a result of the notification process:

- 3 Banks Street, Maroubra
- 5 Banks Street, Maroubra
- 11 Banks Street, Maroubra
- 4 Inman Street, Maroubra

- **5 Inman Street, Maroubra**
- **9 Inman Street, Maroubra**
- **12 Inman Street, Maroubra**
- **16 Inman Street, Maroubra**
- **2 Undine Street, Maroubra**
- **12 Undine Street, Maroubra**
- **18A Undine Street, Maroubra**
- **4 Wolseley Road, Coogee**
- **Unknown address**

The grounds of objections generally related to:

- Breach to Council's overall height control and the external wall height.
- The DCP does not permit roof terraces on the main roof.
- Loss of views.
- Not in character with the general area.
- Adverse precedent.
- Visual and acoustic privacy concerns.
- Roof terrace is excessive in size and will be used for entertainment purposes.
- CI 4.6 should not be supported as there is no justification to vary the controls.
- Unnecessary additional bulk.
- The proposal is yet another DA for this building and is another creep of works beyond that allowed and approved.
- Current works are damaging the adjoining properties.
- Light pollution
- Cabana will be used as a second dwelling.
- Proposal does not comply with the aims of the zone or the control.
- The development has enough balconies as approved to enjoy the views.
- Overdevelopment of the site.

The submissions relating to setting a precedent, the proposal being a creep of works beyond that already approved, the current works on site damaging adjoining properties and use of the cabana as a secondary dwelling have been noted. The other points of objection raised have been considered within this report and they are applicable to the proposal.

## **6. Relevant Environment Planning Instruments**

### **6.1. SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate was not required for the proposal as the works are valued at below \$50,000.

### **6.2. SEPP (Resilience and Hazards) 2021**

The site is mapped as being within the Coastal Use Area under Division 4 (Coastal Use Area) of SEPP (Resilience and Hazards) 2021. The proposal satisfies the objectives of Clause 2.11 as the proposal will not impact on access along the foreshore, will not result in overshadowing or wind funneling from the foreshore, and will not impact on Aboriginal, cultural, or built environment heritage. However, the proposal is not considered to be appropriate in terms of impact on the visual amenity and scenic qualities of the coast.

Clause 2.12 under Division 4 also requires Council to consider whether the proposed development is likely to cause increased risk of coastal hazards on the site. The proposed development will not result in increased risk of coastal hazards on the site.

Chapter 4 of the SEPP deals with remediation of land. The available history of the site indicates that the site has been used for residential purposes for a significant period of time and the site has received recent approvals for the residential use to continue. No significant risk is posed and therefore under Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered suitable for continued residential use.



### 6.3. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is not consistent with the specific objectives of the zone in that the proposed development does not achieve the following objectives:

- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.65:1	0.65:1	Yes
CI 4.3: Building height (max)	9.5m	9.77m	No

#### 6.3.1. Clause 4.6 - Exceptions to development standards

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

#### 6.3.2. Clause 6.7 Foreshore scenic protection area

The site is located within the Foreshore Scenic Protection Area. The proposal has not demonstrated that the development is consistent with the objectives of Clause 6.7 Foreshore Scenic Protection Area under RLEP 2012.

- (1) *The objectives of Clause 6.7 are as follows—*
- (a) *to recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,*
  - (b) *to protect and improve visually prominent areas adjoining the coastal foreshore,*
  - (c) *to protect significant public views to and from the coast,*
  - (d) *to ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.*

The roof terrace is not integrated with the design of the dwelling and the four storey form is not compatible with the locality. The proposed development is not considered to be appropriate for the location and detracts from the scenic qualities of the coast.

### 7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.3: Building height (max)	9.5m	9.77m	0.27 m	2.84%

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

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

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

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

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

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

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

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

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

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

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be

satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

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

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

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

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

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

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

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

#### 7.1. **Exception to the Height of Buildings development standard (Cl 4.3)**

The applicant's written justification for the departure from the height of buildings standard is contained in Appendix 1.

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

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

The objectives of the height of buildings standard are set out in Clause 4.3 (1) of RLEP 2012.

The applicant has addressed each of the objectives as follows:

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

The applicant's written justification demonstrates that this objective is satisfied for the following reasons:

*"The bulk and scale of the development is compatible with surrounding existing development and is consistent with the desired future character of the area.*

*The component of the development above the height control is limited to top part of the lift overrun for the proposed roof top terrace, which breaches the building height control by 0.27m. The remainder of the development sits below the 9.5m height line. Refer to the extract of Section above.*

*The height breach is minor (0.27m, 02.84%) and will be indiscernible from the streetscape and surrounding properties. A reduction of the proposed building height would provide for an indiscernible benefit to the streetscape and would reduce the amenity of the development.*

*The high-quality architectural response which complies with the applicable FSR, site coverage and landscaping controls, thereby confirming that that proposal will sit comfortably in the character of the local area, as illustrated in the extracts of the 3D models above.*

*The development provides an articulated building form that minimises perceived bulk and scale impacts when viewed from the surrounds of the site."*

Assessing officer's comment: The proposed four storey form is not compatible with the desired future character of the locality as it represents a variation to the height of buildings standard prescribed by Clause 4.3 of the RLEP 2012.

The proposal exceeds the maximum external wall height control under the RCDGP by 2.5m.

The roof terrace is not required to meet the private open space or landscaping requirements under the RDCP, as the areas provided at ground level are compliant with the relevant controls.

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

The development is not within a conservation area or near a heritage item, so the objective detailed in subclause (b) is not relevant to this development.

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

The applicant's written justification demonstrates that this objective is satisfied for the following reasons:

*"The proposed height non-compliance will not be responsible for any discernible impacts beyond that of a building with a compliant height in terms of visual bulk, privacy, solar access, and views.*

*Solar access: The non-compliant component of the development will not result in any adverse overshadowing to the neighbouring properties.*

*Views: The height of the proposed lift structure will not adversely affect views from private or public land. Any ocean views from the surrounding properties to the east are across a side boundary.*

*Privacy: The proposed works have been designed and sited to ensure adequate visual and acoustic privacy between the subject site and the adjoining properties. The height non-compliance is related to the top of the lift overrun, which will not result in any privacy impacts to neighbouring properties."*

Assessing officer's comment: The proposed development has not demonstrated that the impacts on the amenity of adjoining and neighbouring land in terms of additional visual bulk, privacy impacts, overshadowing and view loss is reasonable.

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

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

*“The proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality.*

*• The component of the development above the height control is limited to top part of the lift overrun for the proposed roof top terrace, which breaches the building height control by 0.27m. The remainder of the development sits below the 9.5m height line. The height variation associated with the lift facilitates improved accessibility to the roof terrace and an alternative to the stair access.*

*• The height breach is minor (0.27m, 02.84%) and will be indiscernible from the streetscape and surrounding properties. A reduction of the proposed building height would provide for an indiscernible benefit to the streetscape and would reduce the amenity of the development.*

*• Exceedance of the height control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:*

*o The proposed height non-compliance will not result in the loss of views from surrounding development;*

*o The proposed height non-compliance will not result in any additional overshadowing above that approved under DA/315/2020;*

*o The proposed height non-compliance will not result in any visual and acoustic privacy impacts to adjoining properties; and*

*o The proposal will provide a development which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality.*

Assessing officer's comment: The applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposal does not demonstrate that the proposed roof terrace is consistent with the applicable controls under the RLEP or RDCP. The design is not integrated with the built form and does not maintain a satisfactory privacy relationship with neighbouring properties.

The proposal has not included a view loss assessment addressing view sharing principles.

The proposal does not demonstrate compliance with the RDCP controls relating to visual and acoustic privacy for the development and adjoining developments. Insufficient information is provided to compare the approved shadows cast to adjoining properties against those resulting from the proposed roof terrace.

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Height of Buildings standard and the R2 Low Density Residential zone is provided below:

#### **Assessment against objectives of the height of buildings standard**

Assessing officer's comment: For the reasons outlined above, the development is not consistent with the objectives of the height of buildings standard.

#### **Assessment against objectives of the R2 Low Density Residential zone**

The objectives of the R2 Low Density Residential zone are:



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

Assessing officer's comment: The proposed development has not demonstrated that it will contribute to the desired future character of the area or protect the amenity of residents.

The development is not consistent with the objectives of the height of buildings standard and the R2 Low Density Residential zone. Therefore, it is not considered that the development will be in the public interest.

#### **4. Has the concurrence of the Secretary been obtained?**

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

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

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

*Is there public benefit from maintaining the development standard?*

While the extent of variation to the height control is not significant, the impact of the proposal as detailed in this report shows that there would be a public benefit in maintaining the development standard in this instance.

#### **Conclusion**

Based on the above assessment, it is not considered that the requirements of Clause 4.6(4) have been satisfied and that development consent should not be granted for development that contravenes the height of buildings development standard.

#### **8. Comprehensive Planning Proposal to update Randwick Local Environmental Plan 2012 (LEP)**

The Comprehensive Planning Proposal (CPP) to update the Randwick Local Environmental Plan (RLEP) 2012 was exhibited to the Public from the 31 May to the 12 July 2022.

The planning proposal has been undertaken to amend the Randwick LEP 2012 to align with the strategic direction and planning priorities as outlined by the NSW Government. The planning proposal has proposed changes to introduce new Housing Investigation Areas, changes to the construction and subdivision of attached dual occupancies in R2 land use zones, proposed new heritage items, changes to open space and recreation policies, introduction of controls to strengthen environmental resilience, introduction of new neighbourhood clusters to support local economic development, introduction of the employment land zones reform as stipulated by the NSW Government, and outlining existing rezoning request and housekeeping changes to the LEP.

The final Comprehensive Planning Proposal was submitted to the Department of Planning and Environmental on 20 September 2022 for formal approval and finalization. The council has received a request for additional information from the Department of Planning and Environment which is currently being worked on.

No changes to zoning, height or FSR controls are proposed for the subject site.

Therefore, the proposal will not be impacted by the subject changes under the CPP.

## 9. Development control plans and policies

### 9.1. 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.

## 10. 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	The Comprehensive Planning Proposal that updates the Randwick LEP 2012 needs to be considered under this section of the Act. See section 8 for discussion.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	Refer to 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(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is not consistent with the dominant character in the locality and will result in detrimental social impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. However, the proposed development is not considered suitable for the site.

Section 'Matters Consideration'	4.15 for Comments
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal does not promote the objectives of the zone and will result in significant adverse environmental, social, or economic impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.

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### 10.1. Discussion of key issues

- **Height**

Clause 4.3 of RLEP 2012 permits a maximum height of building of 9.5m for the site. The proposed maximum building height shown on the submitted plans is 9.77m which exceeds the development standard by 0.27m or 2.84%.

The levels provided on Section B, Drawing No. A-21 prepared by Alec Pappas Architects dated Nov '22 show that the 9.5m building height level has been taken from “existing ground line (at face of lift)” which is higher than the existing ground line shown on the other section and elevational plans, which indicates that the height may further exceed 9.5m.

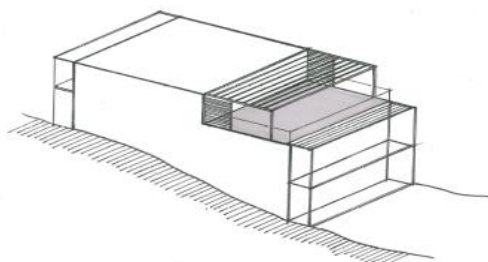
The proposed development has a maximum external wall height of 9.5m measured along the southern elevation which exceeds the maximum external wall height of 7m allowed under Part C1, Section 3.2, Control (i) of the RCDGP 2013.

The proposed development does not require, based on Council's planning controls, the need for additional recreational space on the roof given the development is compliant in the provision of landscaping and private open space requirements. Accordingly, there are no environmental planning grounds that justifies a variation to the height controls.

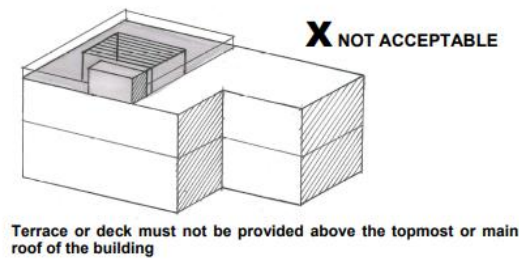
- **Roof Design and Features**

The objectives of Part C1, Section 4.4 of RCDGP 2013 seek to ensure that the roof design integrates with the form, proportions, and façade composition of the building, and to ensure that trafficable roof space is integrated with the built form and maintains satisfactory privacy relationship with the neighbouring dwellings.

Control (i) of Part C1, Section 4.4 of RCDGP 2013 requires terraces, decks or trafficable outdoor spaces may be provided in stepped buildings but must not be provided on the uppermost or main roof of the building. The images below clearly articulate the council's controls.



For stepped buildings on sloping sites, a terrace may be provided on the roof (not the uppermost roof) above the storeys below



The proposed development includes a roof terrace located on the main roof of the approved building and will have an enclosed staircase and lift access. The roof terrace is not integrated into the design of the dwelling and the application does not demonstrate that a satisfactory privacy relationship will be maintained with the neighbouring dwellings, as well as a view loss impact.

Furthermore, the roof terrace is being created through a need to vary Council's height controls.

- **View Loss**

A view loss analysis has not been submitted demonstrating that the proposal meets the objectives of Part C1, Section 5.6 of the RDCP 2013 which seek to protect and enhance views from the public domain, including streets, parks, and reserves; and to ensure development is sensitively and skillfully designed to maintain a reasonable amount of views from the development, neighbouring dwellings, and the public domain.

The proposal is considered unreasonable in terms of its impact on views in accordance with the four-step approach set out in the *Tenacity Consulting vs Warringah* [2004] NSWLEC 140.

No view assessment analysis has been submitted to justify that the Proposal is acceptable in respect of view loss and view sharing.

- **Visual and acoustic privacy**

Part C1, Section 5.3 Control (iv) of the RDCP 2013 requires privacy screens to be installed in positions suitable to mitigate the loss of privacy where a terrace is likely to overlook the private open space of windows of the adjacent dwellings.

Part C1, Section 5.4 Control (i) requires dwellings to be sited and designed to limit the potential for excessive noise transmission to the sleeping areas of adjacent dwellings. An assessment of the potential acoustic impacts to the adjoining dwellings from the use of the roof terrace has not been undertaken as part of the proposed development.

There is also no detail as to what lighting is proposed on the roof, and whether this would have any impact on neighbouring properties.

- **Site coverage**

The application has not calculated site coverage in accordance with Part C1, Section 2.3 Control (i) of the RDCP 2013, as the cabana has been excluded from the calculation.

## 11. Conclusion

That the application for alteration and additions to the dwelling approved under DA/315/2020 & DA/315/2020/A, including construction of a roof terrace, and extending the approved cabana at 7 Inman Street, Maroubra, be refused for the following reasons:

1. The proposal does not comply with the provisions of the Randwick Local Environmental Plan 2012 (RLEP) in particular:

- a. The proposal is inconsistent with the objectives of the R2 Low-Density Residential land use zone.
  - b. The proposal is non-compliant with the maximum Building Height applicable to the site pursuant to Clause 4.3.
  - c. The proposal has not adequately demonstrated that Clause 4.6 has been satisfied, in that compliance with the building height standard is unreasonable or unnecessary in the circumstances, and that there is sufficient environmental planning grounds to justify contravening the development standard.
  - d. The proposal is inconsistent with the objectives of Clause 6.7 in relation to Foreshore Scenic Protection Area.
2. The proposal does not comply with the provision of Randwick Comprehensive Development Control Plan 2013 (RDCP 2013) in particular:
  - a. Pursuant to Section B10 of Part B, the proposal is inconsistent with the controls and objectives of the Foreshore Scenic Protection Area.
  - b. Pursuant to Control (i) of Section 2.3, Part C1, the proposal has not demonstrated compliance with site coverage.
  - c. Pursuant to Control (i) of Section 3.2, Part C1, the proposal does not comply with building wall height.
  - d. Pursuant to Controls (i) and (ii) of Section 4.4, Part C1, the proposal does not comply with the design controls for rooftop terraces.
  - e. Pursuant to Section 5.1, Part C1, the proposal has not demonstrated that adequate solar access will be provided to neighbouring development.
  - f. Pursuant to Section 5.3, Part C1, the proposal has not demonstrated that the visual privacy of adjoining properties is retained.
  - g. Pursuant to Section 5.4, Part C1, the proposal has not demonstrated that the acoustic privacy of adjoining properties is retained.
  - h. Pursuant to Section 5.6, Part C1, the proposal has not adequately addressed view-sharing with neighbouring properties.
3. Pursuant to Section 4.15(1)(b) of the Environmental Planning & Assessment Act 1979, the application has not demonstrated that the development does not impact the natural or built environment or that it does not result in adverse social or economic impacts.
4. Pursuant to Section 4.15(1)(c) of the Environmental Planning & Assessment Act 1979, the application has not demonstrated that the subject site is suitable for the development.
5. Pursuant to Section 4.15(1)(d) of the Environmental Planning & Assessment Act 1979, the application has not demonstrated that the development is in the public interest.



## Appendix 1: Applicant's written request seeking to justify the contravention of the development standard.

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### **RANDWICK LEP 2012 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS**

This Clause 4.6 variation request has been prepared to accompany the development application for alterations and additions to the dwelling approved under DA/315/2020, including the construction of a roof top terrace above the approved dwelling and extending the approved cabana at the rear of the site at 7 Inman Street, Maroubra.

Clause 4.6 of the Randwick LEP 2012 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement from *Initial Action Pty Ltd v Woollahra Council [2017] NSWLEC 1734*, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

#### **Clause 4.6 Exceptions to development standards**

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

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

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

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

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

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

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

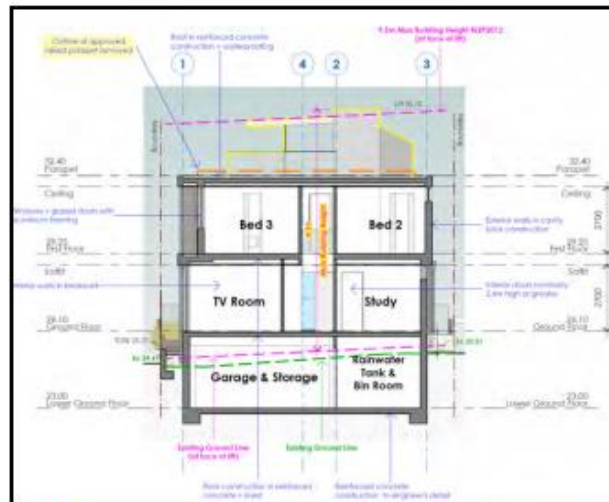
(5) In deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

### Development Standard to be Varied

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





**Figure 23: Extract of the Section demonstrating that only the top part of the lift overrun breaches the building height limit, the remainder of the building complies with the building height control**

- The height breach is minor (0.27m, 02.84%) and will be indiscernible from the streetscape and surrounding properties. A reduction of the proposed building height would provide for an indiscernible benefit to the streetscape and would reduce the amenity of the development.
- The development provides an articulated building form that minimises perceived bulk and scale impacts when viewed from the surrounds of the site.
- Exceedance of the height control will not create additional unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this height would not create additional benefit for adjoining properties or the locality.
- The non-compliant component of the development will not result in any additional overshadowing to the neighbouring properties.
- The height of the proposed lift structure will not adversely affect views from private or public land. Any ocean views from the surrounding properties to the east are across a side boundary.
- The proposed works have been designed and sited to ensure adequate visual and acoustic privacy between the subject site and the adjoining properties. The height non-compliance is related to the top of the lift overrun, which will not result in any privacy impacts to neighbouring properties.
- The high-quality architectural response confirms that that proposal will sit comfortably in the character of the local area, as illustrated in the extracts of the 3D models submitted shown below:





**Figure 24: Extract of the 3D Model of the proposed development demonstrating the compatible nature of the built form with the surrounding development**



**Figure 25: Extract of the 3D Model of the proposed development demonstrating the compatible nature of the built form with the surrounding development**



**Figure 26: Extract of the 3D Model of the proposed development demonstrating the compatible nature of the built form with the surrounding development**

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

Consistency with the objectives of the height standard in the LEP	
Objectives	Assessment
(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,	<p>The bulk and scale of the development is compatible with surrounding existing development and is consistent with the desired future character of the area.</p> <p>The component of the development above the height control is limited to top part of the lift overrun for the proposed roof top terrace, which breaches the building height control by 0.27m. The remainder of the development sits below the 9.5m height line. Refer to the extract of Section above.</p> <p>The height breach is minor (0.27m, 02.84%) and will be indiscernible from the streetscape and surrounding properties. A reduction of the proposed building height would provide for an indiscernible benefit to the streetscape and would reduce the amenity of the development.</p> <p>The high-quality architectural response which complies with the applicable FSR, site coverage and landscaping controls, thereby confirming that that proposal will sit comfortably in the character of the local area, as illustrated in the extracts of the 3D models above.</p> <p>The development provides an articulated building form that minimises perceived bulk and scale impacts when viewed from the surrounds of the site.</p>
(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,	<p>The site is not identified as a Heritage Item and there are no heritage items located within the vicinity of the subject site. The site is not located in a Heritage Conservation Area (HCA).</p>
(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.	<p>The proposed height non-compliance will not be responsible for any discernible impacts beyond that of a building with a compliant height in terms of visual bulk, privacy, solar access and views.</p> <p><u>Solar access:</u> The non-compliant component of the development will not result in any adverse overshadowing to the neighbouring properties.</p> <p><u>Views:</u> The height of the proposed lift structure will not adversely affect views from private or public land. Any ocean views from the surrounding properties to the east are across a side boundary.</p>



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	<p><b>Privacy:</b> The proposed works have been designed and sited to ensure adequate visual and acoustic privacy between the subject site and the adjoining properties. The height non-compliance is related to the top of the lift overrun, which will not result in any privacy impacts to neighbouring properties.</p>
Consistency with the objectives of the R3 Medium Density Residential Objectives	Assessment
<ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a medium density residential environment.</li> <li>To provide a variety of housing types within a medium density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.</li> <li>To protect the amenity of residents.</li> <li>To encourage housing affordability.</li> <li>To enable small-scale business uses in existing commercial buildings.</li> </ul>	<p>The proposed alterations and additions to the dwelling approved under DA/315/2020 are permissible within the R2 Low Density Residential zone.</p> <p>The proposed height variation does not raise any inconsistency with the proposal's ability to achieve the objectives of the R2 Low Density Residential zone.</p> <p>The proposal aligns with the objectives of the zone by continuing to provide for the housing needs of the community within a low-density residential environment.</p> <p>The proposed works (including the component which breaches the height limit) will not have an adverse impact on the streetscape or desired future character of the area.</p> <p>The proposal height variation maintains the amenity of the adjoining residential developments and the streetscape by safeguarding visual and acoustic privacy, view loss and solar access.</p> <p>Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the minor height variation.</p>

Based on the above assessment, it is considered that strict compliance with the LEP height standard is unreasonable and unnecessary in this instance.

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

**Assessment:** It is considered that there are sufficient environmental planning grounds to justify varying the building height development standard, which include:

- The proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality.
- The component of the development above the height control is limited to top part of the lift overrun for the proposed roof top terrace, which breaches the building height control by 0.27m. The remainder of the development sits below the 9.5m height line.

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The height variation associated with the lift facilitates improved accessibility to the roof terrace and an alternative to the stair access.

- The height breach is minor (0.27m, 02.84%) and will be indiscernible from the streetscape and surrounding properties. A reduction of the proposed building height would provide for an indiscernible benefit to the streetscape and would reduce the amenity of the development.
- Exceedance of the height control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:
  - The proposed height non-compliance will not result in the loss of views from surrounding development;
  - The proposed height non-compliance will not result in any additional overshadowing above that approved under DA/315/2020;
  - The proposed height non-compliance will not result in any visual and acoustic privacy impacts to adjoining properties; and
  - The proposal will provide a development, which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality.

On the above basis, it is considered that there are sufficient environmental grounds to permit the building height variation in this instance.

**Other Matters for Consideration**

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

**Assessment:** The above assessment demonstrates that the proposed height satisfies the objectives of the height standard and the R2 Low Density Residential zone.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the building height variation.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the height control.

*(5) In deciding whether to grant concurrence, the Director-General must consider:*

*(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning*

**Assessment:** The proposed building height variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The proposed building height allows for achievement of a compatible building envelope without creating a development with overbearing height, bulk or scale and without compromising the desired future character of the area.

*Statement of Environmental Effects**7 Inman Street, Maroubra*

The design of the proposal is considered to be a better outcome as the height breach allows for improved accessibility to the roof terrace.

The proposed building height is therefore consistent with the State and Regional Policies, particularly urban consolidation principles which seek to provide additional densities near transport and established services.

*(b) the public benefit of maintaining the development standard*

**Assessment:** There is no public benefit in maintaining the building height standard given the limited amenity impacts associated with the development and the positive streetscape outcome that would arise from the redevelopment of the subject site.

*(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

**Assessment:** There are not considered to be any additional matters to consider beyond those discussed above

Generally, as to concurrence, for the reasons outlined above – and particularly having regard to the site-specific nature of this Clause 4.6 variation request – there is nothing about this proposed building height variation that raises any matter of significance for State or regional environmental planning, nor is there any broad public benefit in maintaining the development standard on this site. There are no other relevant matters requested to be taken into consideration before granting concurrence.

**Conclusion**

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at 7 Inman Street, Maroubra and is requested to be looked upon favourably by the consent authority.

**Appendix 2: DCP Compliance Table****3.1 Section C1: Low Density Residential**

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2	Yes
<b>2</b>	<b>Site planning</b>	No changes to lot size or dimensions.	Yes
<b>2.1</b>	<b>Minimum lot size and frontage</b>		
	Minimum lot size (RLEP): <ul style="list-style-type: none"> <li>R2 = 400sqm</li> <li>R3 = 325sqm</li> </ul>	531.10m <sup>2</sup>	No change to the lot size
	<b>Minimum frontage</b>		
	i) Min frontage R2 = 12m ii) Min frontage R3 = 9m iii) No battle-axe or hatchet in R2 or R3 iv) Minimum frontage for attached dual occupancy in R2 = 15m v) Minimum frontage for detached dual occupancy in R2 = 18m	Min = 12m Existing = 6.2m	No change
<b>2.3</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 531.10m <sup>2</sup> Maximum = 50% Proposed = 40.9% however cabana has not been included.	Insufficient information
<b>2.4</b>	<b>Landscaping and permeable surfaces</b>		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front. vii) Retain existing or replace mature native trees. viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	Site = 531.10m <sup>2</sup> Proposed = 172.71m <sup>2</sup> or 32.5%	Yes
<b>2.5</b>	<b>Private open space (POS)</b>		
	<b>Dwelling &amp; Semi-Detached POS</b>		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Site = 531.10m <sup>2</sup> An area equivalent to 7m x 7m is provided.	Yes
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.65:1 (345.6m<sup>2</sup>)</b>	Proposed: 0.65:1 (345.18m <sup>2</sup> )	Yes
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 9.5m</b>	Proposed: 9.77m	No, variation is sought
	i) Maximum external wall height = 7m	Proposed: 9.5m	No, variation is

DCP Clause	Controls	Proposal	Compliance
	(Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	measured along the southern elevation	sought
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.1</b>	<b>Front setbacks</b> 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	There is no change to the front setback of the dwelling.	No change
<b>3.3.2</b>	<b>Side setbacks:</b> Semi-Detached Dwellings: • Frontage less than 6m = merit • Frontage b/w 6m and 8m = 900mm for all levels Dwellings: • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1 <sup>st</sup> floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1 <sup>st</sup> floor), 1800mm above.  Refer to 6.3 and 7.4 for parking facilities and outbuildings	There is no change to the side setback of the dwelling.	No change
<b>3.3.3</b>	<b>Rear setbacks</b> 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: - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access 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. iv) For irregularly shaped lots = merit assessment on basis of: - Compatibility - POS dimensions comply - minimise solar access, privacy, and view sharing impacts  Refer to 6.3 and 7.4 for parking facilities and outbuildings	There is no change to the rear setback of the dwelling.	No change
<b>4</b>	<b>Building design</b>		
<b>4.1</b>	<b>General</b>		

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DCP Clause	Controls	Proposal	Compliance
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> <li>articulated to enhance streetscape.</li> <li>stepping building on sloping site,</li> <li>no side elevation greater than 12m</li> <li>encourage innovative design</li> </ul>	The proposal does not respond to the site characteristics as the roof terrace is not integrated into the dwelling	No
<b>4.2</b>	<b>Additional Provisions for symmetrical semi-detached dwellings</b>		
	i) Enhance the pair as coherent entity: <ul style="list-style-type: none"> <li>behind apex of roof; low profile or consistent with existing roof</li> <li>new character that is first floor at front only after analysis streetscape outcome</li> </ul> ii) Constructed to common boundary of adjoining semi iii & iv) avoid exposure of blank party walls to adjoining semi and public domain.	N/A	N/A
<b>4.3</b>	<b>Additional Provisions for Attached Dual Occupancies</b>		
	Should present a similar bulk as single dwellings. i) Garage for each dwelling shall have a single car width only ii) Articulate and soften garage entry iii) Minimise driveway width iv) Maximum 2m setback of front entry from front façade v) Maximise landscape planting at front	N/A	N/A
<b>4.4</b>	<b>Roof Design and Features</b>		
	<i>Rooftop terraces</i> i) on stepped buildings only (not on uppermost or main roof) ii) above garages on sloping sites (where garage is on low side)  <i>Dormers</i> iii) Dormer windows don't dominate iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. v) Multiple dormers consistent vi) Suitable for existing  <i>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.	The proposed roof terrace will have an enclosed staircase and lift access. The roof terrace is not integrated into the design of the dwelling and the proposal does not demonstrate that a satisfactory privacy relationship will be maintained with the neighbouring dwellings, as well as view loss impact.	No
<b>4.5</b>	<b>Colours, Materials and Finishes</b>		
	i) Schedule of materials and finishes	Considered	Yes

DCP Clause	Controls	Proposal	Compliance
	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.)	suitable	
<b>4.6</b>	<b>Earthworks</b>		
	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.	No change	No change
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access to proposed development:</b>		
	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) receives a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The shadow plans submitted only show the increase in shadows resulting from the building which exceeds 9.5m. The plans do not show the increase in shadows from the new roof terrace as compared to the approved works issued under DA/315/2020/A.	Insufficient information
	<b>Solar access to neighbouring development:</b>		
	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.	The shadow plans submitted only show the increase in shadows resulting from the building	Insufficient information

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DCP Clause	Controls	Proposal	Compliance
	<p>v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not &lt;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"> <li>Degree of meeting the FSR, height, setbacks, and site coverage controls.</li> <li>Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>Topography of the subject and adjoining allotments.</li> <li>Location and level of the windows in question.</li> <li>Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>	<p>which exceeds 9.5m. The plans do not show the increase in shadows from the new roof terrace as compared to the approved works issued under DA/315/2020/A.</p>	
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	<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"> <li>Skylights (ventilated)</li> <li>Clerestory windows</li> <li>Fanlights above doorways</li> <li>Highlight windows in internal partition walls.</li> </ul> <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>The works do not affect energy efficiency or natural ventilation to the approved dwelling.</p>	<p>No change</p>
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	<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"> <li>windows are offset or staggered.</li> <li>minimum 1600mm windowsills</li> <li>Install fixed and translucent glazing up to 1600mm minimum.</li> <li>Install fixed privacy screens to windows.</li> <li>Creating a recessed courtyard (minimum 3m x 2m).</li> </ul> <p>ii) orientate living and dining windows away from adjacent dwellings (that is orient to</p>	<p>N/A</p>	<p>N/A</p>

DCP Clause	Controls	Proposal	Compliance
	front or rear or side courtyard)		
	<b>Balcony</b>		
	iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	The proposal has not demonstrated that visual privacy for the development and adjoining properties will be achieved from the proposed roof terrace.	No
<b>5.4</b>	<b>Acoustic Privacy</b>		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> <li>- Locate noise-generating areas and quiet areas adjacent to each other.</li> <li>- Locate less sensitive areas adjacent to the party wall to serve as noise buffer.</li> </ul>	As assessment of the potential acoustic impacts to adjoining dwellings from the use of the roof terrace has not been undertaken.	No – insufficient information
<b>5.5</b>	<b>Safety and Security</b>		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	The dwelling entry will remain visible from the street.	Yes
<b>5.6</b>	<b>View Sharing</b>		
	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)	Insufficient information provided.	No – insufficient information
<b>6</b>	<b>Car Parking and Access</b>		
<b>6.1</b>	<b>Location of Parking Facilities:</b>		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available.	No change	No change

DCP Clause	Controls	Proposal	Compliance
	iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: <ul style="list-style-type: none"> <li>- Frontage &gt;12m,</li> <li>- Consistent with pattern in the street;</li> <li>- Landscaping provided in the front yard.</li> </ul> v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces)		
<b>6.2</b>	<b>Parking Facilities forward of front façade alignment (if other options not available)</b>		
	i) The following may be considered: <ul style="list-style-type: none"> <li>- An uncovered single car space</li> <li>- A single carport (max. external width of not more than 3m and</li> <li>- Landscaping incorporated in site frontage</li> </ul> ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: <ul style="list-style-type: none"> <li>- There is no alternative, feasible location for accommodating car parking;</li> <li>- Significant slope down to street level</li> <li>- does not adversely affect the visual amenity of the street and the surrounding areas;</li> <li>- does not pose risk to pedestrian safety and</li> <li>- does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls)</li> </ul>	N/A	N/A
<b>6.3</b>	<b>Setbacks of Parking Facilities</b>		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> <li>- nil side setback on adjoining property;</li> <li>- streetscape compatibility;</li> <li>- safe for drivers and pedestrians; and</li> <li>- Amalgamated driveway crossing</li> </ul>	No change	No change
<b>6.4</b>	<b>Driveway Configuration</b>		
	Maximum driveway width: <ul style="list-style-type: none"> <li>- Single driveway – 3m</li> <li>- Double driveway – 5m</li> </ul> Must taper driveway width at street boundary and at property boundary.	No change	No change
<b>6.5</b>	<b>Garage Configuration</b>		



DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>i) recessed behind front of dwelling</li> <li>ii) The maximum garage width (door and piers or columns): <ul style="list-style-type: none"> <li>- Single garage – 3m</li> <li>- Double garage – 6m</li> </ul> </li> <li>iii) 5.4m minimum length of a garage</li> <li>iv) 2.6m max wall height of detached garages</li> <li>v) recess garage door 200mm to 300mm behind walls (articulation)</li> <li>vi) 600mm max. parapet wall or bulkhead</li> <li>vii) minimum clearance 2.2m AS2890.1</li> </ul>	No change	No change
<b>6.6</b>	<b>Carport Configuration</b>		
	<ul style="list-style-type: none"> <li>i) Simple post-support design (max. semi-enclosure using timber or metal slats minimum 30% open).</li> <li>ii) Roof: Flat, lean-to, gable or hipped with pitch that relates to dwelling</li> <li>iii) 3m maximum width.</li> <li>iv) 5.4m minimum length</li> <li>v) 2.6m maximum height with flat roof or 3.0m max. height for pitched roof.</li> <li>vi) No solid panel or roller shutter door.</li> <li>vii) front gate allowed (minimum 30% open)</li> <li>viii) Gate does not open to public land</li> </ul>	N/A	N/A
<b>6.7</b>	<b>Hardstand Car Space Configuration</b>		
	<ul style="list-style-type: none"> <li>i) Prefer permeable materials in between concrete wheel strips.</li> <li>ii) 2.4m x 5.4m minimum dimensions</li> </ul>	No change	No change
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.1</b>	<b>General - Fencing</b>		
	<ul style="list-style-type: none"> <li>i) Use durable materials</li> <li>ii) sandstone not rendered or painted</li> <li>iii) don't use steel post and chain wire, barbed wire, or dangerous materials</li> <li>iv) Avoid expansive surfaces of blank rendered masonry to street</li> </ul>	No change	No change
<b>7.2</b>	<b>Front Fencing</b>		
	<ul style="list-style-type: none"> <li>i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. <ul style="list-style-type: none"> <li>- 1800mm max. provided upper two-thirds partially open (30% min), except for piers.</li> </ul> </li> <li>ii) lightweight materials used for open design and evenly distributed</li> <li>iii) 1800mm max solid front fence permitted in the following scenarios: <ul style="list-style-type: none"> <li>- Site faces arterial road</li> <li>- Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment).</li> </ul> <p><i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping</i></p> </li> </ul>	No change	No change

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DCP Clause	Controls	Proposal	Compliance
	<p>(such as cascading plants))</p> <ul style="list-style-type: none"> <li>iv) 150mm allowance (above max fence height) for stepped sites</li> <li>v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible.</li> <li>vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes.</li> <li>vii) Gates must not open over public land.</li> <li>viii) The fence must align with the front property boundary or the predominant fence setback line along the street.</li> <li>ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.</li> </ul>		
<b>7.3</b>	<b>Side and rear fencing</b>		
	<ul style="list-style-type: none"> <li>i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m).</li> <li>ii) Fence may exceed max. if level difference between sites</li> <li>iii) Taper down to front fence height once past the front façade alignment.</li> <li>iv) Both sides treated and finished.</li> </ul>	No change	No change
<b>7.4</b>	<b>Outbuildings</b>		
	<ul style="list-style-type: none"> <li>i) Locate behind the front building line.</li> <li>ii) Locate to optimise backyard space and not over required permeable areas.</li> <li>iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height)</li> <li>iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> <li>- finished external walls (not requiring maintenance;</li> <li>- no openings facing neighbours lots and</li> <li>- maintain adequate solar access to the neighbours dwelling</li> </ul> </li> <li>v) First floor addition to existing may be considered subject to: <ul style="list-style-type: none"> <li>- Containing it within the roof form (attic)</li> <li>- Articulating the facades;</li> <li>- Using screen planting to visually soften the outbuilding;</li> <li>- Not being obtrusive when viewed from the adjoining properties;</li> <li>- Maintaining adequate solar access to the adjoining dwellings; and</li> <li>- Maintaining adequate privacy to the adjoining dwellings.</li> </ul> </li> <li>vi) Must not be used as a separate business premises.</li> </ul>	The proposal includes an extension to the approved cabana, which is located at the rear of the site.	Yes
<b>7.5</b>	<b>Swimming pools and Spas</b>		
	<ul style="list-style-type: none"> <li>i) Locate behind the front building line</li> <li>ii) Minimise damage to existing tree root systems on subject and adjoining sites.</li> <li>iii) Locate to minimise noise impacts on the adjoining dwellings.</li> </ul>	No change	No change

DCP Clause	Controls	Proposal	Compliance
	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.		
<b>7.6</b>	<b>Air conditioning equipment</b>		
	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 proposed.	N/A
<b>7.7</b>	<b>Communications Dishes and Aerial Antennae</b>		
	i) Max. 1 communications dish and 1 antenna per dwelling. ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be: <ul style="list-style-type: none"> <li>- Located behind the front and below roof ridge;</li> <li>- minimum 900mm side and rear setback and</li> <li>- avoid loss of views or outlook amenity</li> </ul> iii) Max. 2.7m high freestanding dishes (existing).	None proposed.	N/A
<b>7.8</b>	<b>Clothes Drying Facilities</b>		
	i) Located behind the front alignment and not be prominently visible from the street	No change	No change
<b>8</b>	<b>Area Specific Controls</b>		
<b>8.1</b>	<b>Development in Laneways</b>		
	i) Max. 6m height. Max. 4.5m external wall height. Mass and scale to be secondary to primary dwelling and upper level contained within roof form (attic storey). ii) 1 operable window to laneway elevation (casual surveillance) iii) Aligns with consistent laneway setback pattern (if no consistent setback, then 1m rear setback). (Refer to Sub-Section 6 for controls relating to setback to garage entry.) iv) Nil side setback allowed subject to: <ul style="list-style-type: none"> <li>- adjoining building similarly constructed</li> <li>- no unreasonable visual, privacy and overshadowing impacts</li> </ul> v) Screen or match exposed blank walls on adjoining properties (i.e. on common boundary).	Not applicable.	N/A

**3.2 Section B7: Transport, Traffic, Parking and Access**

DCP Clause	Controls	Proposal	Compliance
<b>3.2</b>	<b>Vehicle Parking Rates</b>		
	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.	No change	No change

**3.3 Section B10: Foreshore Scenic Protection Area**

DCP Clause	Controls	Proposal	Compliance
	i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated. ii) Outbuildings and ancillary structures integrated with the dwelling design (coherent architecture). iii) Colour scheme complements natural elements in the coastal areas (light toned neutral hues). iv) Must not use high reflective glass v) Use durable materials suited to coast vi) Use appropriate plant species vii) Provide deep soil areas around buildings viii) Screen coping, swimming, and spa pools from view from the public domain. ix) Integrate rock outcrops, shelves, and large boulders into the landscape design x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.	The proposal has not been designed to minimise visual impact on the public areas of the coastline, including views to and from the coast, foreshore reserves, open space, and public areas to the west of the site.	No. Refer to Key Issues.

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**Responsible officer:** GAT & Associates, Town Planners

**File Reference:** DA/592/2022