6th May, 2003

HEALTH, BUILDING AND PLANNING COMMITTEE MEETING

NOTICE IS HEREBY GIVEN THAT A HEALTH BUILDING AND PLANNING COMMITTEE MEETING OF THE COUNCIL OF THE CITY OF RANDWICK WILL BE HELD IN THE COUNCIL CHAMBER, TOWN HALL, 90 AVOCA STREET, RANDWICK, ON TUESDAY, 13TH MAY, 2003 AT 6.30 P.M.

Committee Members: His Worship, the Mayor, Cr D. Sullivan, Crs Andrews (Deputy Chairperson), Backes, Bastic, Daley (Chairperson), Greenwood, Matson, Matthews, Notley-Smith, Procopiadis, Schick, Seng, Tracey, White, Whitehead.

Quorum: Eight (8) members.


1 Apologies
2 Minutes

3 Addresses to Committee by the Public
4 Mayoral Minutes
5 Development Applications
5.1 DIRECTOR PLANNING & COMMUNITY DEVELOPMENT'S REPORT 30/2003 - 5 TAYLOR STREET, MAROUBRA. (DEFERRED)
5.2 DEVELOPMENT APPLICATION REPORT - 19 TORRINGTON ROAD, MAROUBRA.
5.3 DEVELOPMENT APPLICATION REPORT - 95-97 MASON STREET AND 106 BOYCE ROAD, MAROUBRA.
5.4 DEVELOPMENT APPLICATION REPORT - 89A BROOK STREET, COOGEE.
5.5 DEVELOPMENT APPLICATION REPORT - 38 ELAROO AVENUE, PHILLIP BAY.
5.6 DEVELOPMENT APPLICATION REPORT - 19 ADAMS AVENUE, MALABAR.

6 General Business

7 Notice of Rescission Motions

........................................
GENERAL MANAGER
Director Planning & Community Development's Report 30/2003

SUBJECT: 5 Taylor Street, Maroubra.

DATE: 30 April, 2003  FILE NO: 02/00970/GB

REPORT BY: DIRECTOR PLANNING & COMMUNITY DEVELOPMENT

INTRODUCTION:

The Health, Building and Planning Committee Meeting of 11 February 2003 considered a Development Application Report (DA 970/2002) for 5 Taylor Street, Maroubra for the installation of a satellite dish in the rear yard of the existing dwelling house. The report recommended that the development application be approved, subject to conditions.

ISSUES:

The Health, Building and Planning Committee Meeting of 11 February 2003 made the following resolution in relation to the subject application:

‘that this application be deferred to allow the applicant to submit amended plans to relocate the satellite dish to the roof of the subject house’.

The applicant was advised by letter dated 17 February 2003 of the above resolution. The Environmental Planning Officer assessing the development application has spoken with the applicant on a number of occasions seeking confirmation as to the intention of the applicant. The applicant has advised that he does not intend to submit amended plans to relocate the satellite dish to the roof of the house. Accordingly, Development Application 970/2002 is now referred back to the Health, Building and Planning Committee for determination.

RECOMMENDATION:

THAT Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No 970/2002 for the installation of a satellite dish in the rear yard of the existing dwelling house at 5 Taylor Street, Maroubra, subject to the following conditions:-
1. The development must be implemented substantially in accordance with the plans numbered 2255, Sheets 1, 2, 3 & 4, dated DEC 2002 and received by Council on 6 December 2002, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

2. The colour of the satellite dish is to be changed to a dark green so as to be more compatible with the colour of vegetation in surrounding back yards.

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 of Planning & Environment, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to commencement of any building works.

3. The maximum diameter of the satellite dish is to be reduced to 2.3m so as to reduce the visual impact of the satellite dish and so as to be more compatible with the size of other satellite dishes on surrounding properties. Construction certificate plans must be modified accordingly.

4. So as to reduce the visual impact of the satellite dish, the maximum height of the satellite dish is to be lowered so that the outer extremity of the satellite dish does not have the capacity to extend beyond 2.4m above existing ground level, regardless of the direction in which the satellite dish is pointed. Construction certificate plans must be modified accordingly.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

5. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

The following conditions are applied to ensure that the development satisfies the terms of Council's approval and relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

6. Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

7. Prior to the commencement of any building work, a principal certifying authority must be appointed and Council is to be notified accordingly and, at least 2 days notice of the intention to commence building work must be given to Council, in
accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

8. A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be available to the Council officers upon request.

9. The building works are to be inspected by the principal certifying authority (or other suitably qualified person on behalf of the applicant) to monitor compliance with Council’s approval and the relevant standards of construction.

   Documentary evidence of compliance with Council’s approval and relevant standards of construction, is to be maintained by the principal certifying authority.

10. Building and demolition works must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive, between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and public holidays, except with the specific written authorisation of Council’s Manager of Environmental Health & Building Services.

ATTACHMENT/S:

2. A4 reduced plans

SIMA TRUUVERT
ACTING DIRECTOR PLANNING &
COMMUNITY DEVELOPMENT

SIMON FRENCH
ENVIRONMENTAL PLANNING
OFFICER
Development Application Report

REPORT BY: DIRECTOR of PLANNING & COMMUNITY DEVELOPMENT

DATE: 15 January, 2003  FILE NO: 02/00970/GB

PROPOSAL: Installation of satellite dish in rear yard of existing dwelling house.
PROPERTY: 5 Taylor Street, Maroubra.
WARD: Central Ward.
APPLICANT: K. T. Hoo.

Subject Site

Submissions received

North

LOCALITY PLAN
1. **EXECUTIVE SUMMARY**

The application has been referred to the Health, Building and Planning Committee for determination at the request of Councillors Anthony Andrews, Chris Bastic, Dominic Sullivan.

The application proposes to install a free-standing satellite dish in the rear yard of a detached dwelling. The estimated cost of the development is $2,000. Satellite dishes with diameters smaller than the diameter of the proposed satellite dish have recently been approved on nearby properties.

The recommendation is for approval subject to conditions, limiting the maximum diameter of the satellite dish to 2.3m and its maximum height to 2.4m above existing ground level.

2. **THE PROPOSAL**

The application proposes to install a free-standing satellite dish in the rear yard between the existing swimming pool and the rear property boundary which is shared with 36 Parer Street. The proposed dish has a diameter of 2.7m. The outer extremity of the dish would rise to a height of up to 3.6m above ground level. At its closest point to the rear fence, the outer extremity of the dish would be 2m from the rear boundary with 36 Parer Street. The dish would be over 5m from the north-western side boundary with 3 Taylor Street and over 8m from the south-eastern side boundary with 7 Taylor Street. It is proposed to locate the satellite dish upon an area of the rear yard which is currently concreted.

The application indicates that the purpose of the satellite dish is to receive television signals from Asia, particularly Indonesia.

3. **THE SUBJECT SITE AND SURROUNDING AREA**

The subject site is relatively flat and is located on the southern side of Taylor Street. The site has a frontage to Taylor Street of 16.4m, a north-western side boundary of 37.4m, a south-eastern side boundary of 32.6m and a rear boundary of 17.1m. The site contains a two storey, detached dwelling with an inground swimming pool in the rear yard. The surrounding locality is largely residential and consists mainly of detached dwellings.

Satellite dishes have recently been approved at the following properties near the subject site:

- 3 Taylor Street, Maroubra (adjoining the subject site, to the north-west): 2.27m diameter dish mounted on roof of dwelling to a maximum height of 5.694m. DA607/2002 - approved 02/09/2002.

- 34 Parer Street, Maroubra (west of the subject site): 2.3m diameter dish mounted on roof of dwelling to a maximum height of 5.874m. DA 1070/2001 - approved 27/12/2001.
4. SITE HISTORY

Building application 97/00567/BN for a free-standing satellite dish in the rear yard of the subject dwelling was refused on 4 July 1997. The application was for a dish of 3.7m in diameter, rising to a height of 5m above ground level.

5. COMMUNITY CONSULTATION

The proposal has been notified in accordance with clause 23 of Randwick Local Environmental Plan 1998. The following submission was received objecting to the development application:

5.1 Objections

M. Giannouleas: 7 Taylor Street, Maroubra

- Visual impact: The bulk, height and scale of the proposed dish are such that it would have an unreasonably adverse visual impact upon the existing outlook available from 7 Taylor Street.
- Amenity: The proposed dish is of a type which is more commonly associated with a commercial use rather than a residential use.
- Sunlight: The proposed colour (beige) is not compatible with the vegetation in surrounding backyards and will reflect light. The dish would cause overshadowing.
- Public interest: Radiation and electrical emissions associated with the dish will have negative impacts upon human health.

Assessment Officer comment

- It is suggested that both the diameter of the dish and the height of the dish be reduced (as detailed in section 9 of this report) so as to reduce the visual impact of the structure.
- Satellite dishes are permissible in the Residential 2A zone and have been approved for nearby properties.
- It is suggested that the colour of the dish be changed (as detailed in section 9 of this report) so as to be more compatible with the colour of surrounding vegetation. The overshadowing impact of a dish modified in the manner suggested below would be relatively minor and would not result in any unreasonably adverse overshadowing impact upon surrounding properties.
- Council’s Environmental Health Section has advised that there are no environmental health concerns in relation to a dish of the type proposed.

5.2 Support

There were no submissions made in support of the development application.

6. TECHNICAL OFFICERS COMMENTS

The application has been referred to Council’s Environmental Health Section for comment regarding possible health implications associated with satellite dishes. The Environmental Health Section has provided verbal comment and has advised
that satellite dishes of the type proposed do not emit radiation and that, accordingly, there are no health implications associated with such structures.

7. MASTER PLANNING REQUIREMENTS

The site has an area of less than 4000 square metres and so is not associated with any master planning requirements.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The development application has been assessed in accordance with the provisions of the following relevant planning documents:

(a) Randwick Local Environmental Plan 1998

The site is zoned Residential 2A under Randwick Local Environmental Plan (LEP) 1998 and the proposed activity is permissible with Council’s consent. The following Clauses of Randwick LEP 1998 apply to the proposal:-

Clause 10: Zone No. 2A (Residential A Zone)

Relevant sections of clause 10 are reproduced below.

(1) The objectives of Zone No. 2A are:

(a) to maintain the character of established residential areas, and
(b) ...
(c) ...
(d) to allow people to carry out a range of activities from their homes, where such activities are not likely to adversely affect the environment of the locality.

8.1 Policy Controls

(a) ‘Dwelling Houses and Attached Dual Occupancies’ Development Control Plan

The ‘Dwelling Houses and Attached Dual Occupancies’ Development Control Plan (DCP) does not contain controls which relate specifically to satellite dishes or similar types of structures.

(b) ‘Exempt and Complying Development’ Development Control Plan

The Exempt section of Council’s ‘Exempt and Complying Development’ Development Control Plan (DCP) does contain controls regarding satellite dishes. This section indicates that (in addition to other requirements) in order for satellite dishes to be considered Exempt Development: dishes are to have a
maximum diameter of 700mm; dishes must not be located within 900mm of any property boundary; dishes attached to a dwelling must not exceed 8m above natural ground level; and free-standing dishes must be located in the rear yard with no part exceeding 2.4m above natural ground level.

9. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

Certain types of satellite dishes are permissible in all zones of the City of Randwick, by virtue of the fact that certain types of satellite dishes are classified as Exempt Development in all zones of the city of Randwick under the Exempt Development Section of Council’s Exempt and Complying Development DCP.

Satellite dishes have recently been approved at the following properties near the subject site:

- 3 Taylor Street, Maroubra (adjoining the subject site, to the north-west): 2.27m diameter dish mounted on roof of dwelling to a maximum height of 5.694m. DA607/2002 - approved 02/09/2002.

- 34 Parer Street, Maroubra (west of the subject site): 2.3m diameter dish mounted on roof of dwelling to a maximum height of 5.874m. DA 1070/2001 - approved 27/12/2001.

The only controls which Council has in relation to satellite dishes are contained in the Exempt Development section of the Exempt and Complying Development DCP. These controls indicate that, in order for a satellite dish to be considered Exempt Development, the dish should have a maximum diameter of 900mm and, if freestanding, a maximum height of 2.4m.

It is considered that the satellite dish proposed as part of the subject application (2.7m diameter, 3.6m high, freestanding) is of a size and height which is not suitable for a low density, residential context. The current proposal does not meet the first objective of the Residential 2A zone, which is: “to maintain the character of established residential areas”.

Accordingly, it is suggested that the diameter of the dish be reduced to 2.3m so as to be of a similar size to recently approved dishes on nearby properties (as detailed above). Furthermore, enquiries with two separate suppliers/installers of satellite dish equipment revealed that a satellite dish of a diameter of 2.3m should be sufficient for the purpose of receiving Indonesian television signals in the eastern suburbs of Sydney, regardless of whether the dish is mounted in the rear yard or on the roof of a dwelling.

It is suggested that the maximum height of the dish should be reduced to 2.4m so as to be more compatible with the scale of ancillary structures that are commonly located in residential backyards. The Exempt Development section of Council’s
Exempt and Complying Development DCP sets a maximum height of 2.4m for free-standing satellite dishes.

Furthermore, it is suggested that the colour of the dish should be changed to a dark green so as to be more compatible with the colour of existing vegetation in surrounding backyards.

The overshadowing impact of a dish modified in the manner suggested above (and located in the position indicated in the application) would be relatively minor and would not result in any unreasonably adverse overshadowing impact upon surrounding properties.

10. CONCLUSION

The proposed satellite dish, as modified by the recommended conditions of consent, would be of a height no greater than that which is allowed for a free-standing satellite dish under Council’s Exempt Development controls, and would be of a diameter which is comparable to the diameter of other satellite dishes recently approved on properties in the immediate vicinity of the subject site. Accordingly, it is considered that the proposed satellite dish, as modified by the recommended conditions of consent, would not result in any unreasonably adverse impact upon the amenity of the adjacent properties or upon the amenity of the locality.

RECOMMENDATION:

A. THAT Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No 970/2002 for the installation of a satellite dish in the rear yard of the existing dwelling house at 5 Taylor Street, Maroubra, subject to the following conditions:-

1. The development must be implemented substantially in accordance with the plans numbered 2255, Sheets 1, 2, 3 & 4, dated DEC 2002 and received by Council on 6 December 2002, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

   The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

2. The colour of the satellite dish is to be changed to a dark green so as to be more compatible with the colour of vegetation in surrounding back yards.

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 of Planning & Environment, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to commencement of any building works.
3. The maximum diameter of the satellite dish is to be reduced to 2.3m so as to reduce the visual impact of the satellite dish and so as to be more compatible with the size of other satellite dishes on surrounding properties. Construction certificate plans must be modified accordingly.

4. So as to reduce the visual impact of the satellite dish, the maximum height of the satellite dish is to be lowered so that the outer extremity of the satellite dish does not have the capacity to extend beyond 2.4m above existing ground level, regardless of the direction in which the satellite dish is pointed. Construction certificate plans must be modified accordingly.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

5. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

The following conditions are applied to ensure that the development satisfies the terms of Council's approval and relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

6. Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

7. Prior to the commencement of any building work, a principal certifying authority must be appointed and Council is to be notified accordingly and, at least 2 days notice of the intention to commence building work must be given to Council, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

8. A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be available to the Council officers upon request.

9. The building works are to be inspected by the principal certifying authority (or other suitably qualified person on behalf of the applicant) to monitor compliance with Council’s approval and the relevant standards of construction.

Documentary evidence of compliance with Council’s approval and relevant standards of construction, is to be maintained by the principal certifying authority.

10. Building and demolition works must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive, between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and public holidays, except with the specific written authorisation of Council’s Manager of Environmental Health & Building Services.
ATTACHMENT/S:

A4 reduced plans.

SIMA TRUUVERT
ACTING DIRECTOR PLANNING & COMMUNITY DEVELOPMENT

SIMON FRENCH
ENVIRONMENTAL PLANNING OFFICER
Development Application Report

REPORT BY: DIRECTOR of PLANNING & COMMUNITY DEVELOPMENT

DATE: 8 April, 2003
FILE NO: D/1167/2002

PROPOSAL: Alterations and additions to existing attached dual occupancy resulting in 2 x 4 bedroom units, addition of garage and carport structure to the rear, new boundary fencing and amend existing strata plan to reflect building changes

PROPERTY: 19 Torrington Road, Maroubra
WARD: Central Ward
APPLICANT: Anthony Romano

Submissions received

LOCALLY PLAN

North
1. EXECUTIVE SUMMARY

The application has been referred to Council for consideration by Councillors Notley-Smith, Andrews, Matson and Seng.

The applicant is seeking approval to construct alterations and first floor additions to the existing attached dual occupancy building on the site at 19 Torrington Road, Maroubra. The development will result in 2 x 4 bedroom dwellings. The estimated cost of development is $500,000.

The application was lodged on 12 December, 2002. Notification resulted in several submissions and minor amendments were sought from the applicant with regard to the location of garbage storage areas, increasing the number of parking spaces and reduction in the length of the building by 400mm to address residents’ concerns. Council representatives met with a resident to discuss the development on site and have spoken with residents by telephone and in informal meetings at Council’s offices.

The proposal generally complies with the building envelope and amenity controls stipulated under the Randwick LEP and Dwelling Houses and Attached Dual Occupancies DCP and meets character and streetscape objectives for this part of Maroubra.

The application is recommended for approval subject to conditions of consent.

2. THE PROPOSAL

The applicant is seeking approval to make substantial additions and alterations to the existing attached dual occupancy on the site. The additions will add new kitchen and dining areas to the rear of each dwelling at ground floor level and increase the extent of the existing first floor level to the entire ground floor footprint. A new garage and carport is proposed to each dwelling on the rear boundary with vehicular access from The Corso. New fencing is also proposed to the three street frontages of the property. The proposal will not result in additional dwellings, providing greater area to the existing dwellings. The exterior of the building will be extensively remodelled to match the new works, cement rendered and a new pitched, tiled roof provided.

Strata subdivision of the building to reflect the enlarged units and new works also forms part of this application.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The site consists of a regular-shaped, corner allotment that has three street frontages. The site has a street address to Torrington Road of 13.41 metres. The northwestern side boundary of the site adjoins Duncan Street and measures 40.235 metres. The rear (southwestern) boundary of the site adjoins The Corso and measures 13.41 metres. The southeastern boundary of the site adjoins 21 Torrington Road, a two storey dwelling. The site area is 539.5m².
Existing on the site is a part single storey, part two storey attached dual occupancy. The building has been strata titled (SP20504). To the rear of the site is an outbuilding containing a toilet and storage area. On the rear boundary is a double garage with access to The Corso.

![Existing development on the subject site at 19 Torrington Road](image)

Development in the locality is characterised by large, detached dwelling houses constructed in a variety of architectural styles. Across Duncan Street to the west are a single and two storey dwellings including 6 Duncan Street (a heritage item). Across Torrington Road and The Corso there are also large freestanding dwellings typical of the immediate area.

4. SITE HISTORY

Council’s records indicate the previous development consents over the property:-

- 67/00023/BZ Alterations to garage Approved 01/01/67
- 80/00962/BZ Alterations and Additions Approved 01/01/80
- 80/00062/DA Make first floor alterations and additions Approved 10/06/80
- 82/00039/SS Strata subdivision of RFB Approved 09/08/83
- 91/00479/BZ Fence to dual occupancy Approved 10/06/91

Applications in 1979 and 1986 for alterations and additions and aged persons accommodation were refused by Council.

In response to concerns raised by Council, the applicant provided amended architectural plans on 14 March 2003. These plans are the subject of this assessment.

5. COMMUNITY CONSULTATION:
The proposal has been advertised in the local press and notified to surrounding property owners on 15 January 2002 in accordance with the Local Environmental Plan 1998. The following submissions were received:

5.1 **Objections**

1. **Jim Conomos, Architect, on behalf of owners 4 Duncan Street Maroubra**
   - Design has no architectural merit
   - Excessive in bulk and scale and not compatible with existing character of the locality
   - Excessive in height as a result of excessive ceiling heights
   - Bland elevation to Duncan Street, lack of articulation to building
   - Impact on heritage significance of older buildings in Duncan Street

2. **N. Kingston and S. Smith, 6 Duncan Street, Maroubra**
   - Heritage listed house is ignored by applicant’s documentation
   - Visual impact, bulk and scale of proposal
   - Insufficient carparking

3. **Alma Vernola, 21 Torrington Road, Maroubra**
   - Two storey façade is incompatible with streetscape
   - Height and overshadowing
   - Non-compliant side setbacks result in bulk and overshadowing
   - Overlooking from rear balcony, windows on southeastern elevation
   - Garbage storage nearby to windows, should be moved to rear of the site

4. **Kay R Saville, 10 Duncan Street, Maroubra**
   - Does not comply with minimum allotment size for strata subdivision
   - Does not comply with allowable FSR
   - Proposal should have to be consistent with the streetscape of the longer frontage of the site (to Duncan Street), not just the Torrington Road streetscape, proposal should be single storey
   - Inadequate parking
   - Proposal represents overdevelopment

5. **R. Meyer, 8 Duncan Street, Maroubra**
   - Insufficient parking
   - Safety issue for cars turning from Torrington Road if cars from development parked on Duncan Street

In response to the submissions made by surrounding residents, the BBQ areas originally proposed to the rear boundary were removed in favour of additional carparking. The garbage storage areas originally proposed to the southeastern side of the site have been moved to the rear and the building reduced in length by 400mm. The amendments made to the proposal were renotified to surrounding
residents on 24 March 2003. In response to this notification the following submissions were received:-

6. Kay R Saville, 10 Duncan Street, Maroubra

- Feels Council employees have disregarded concerns raised in previous letter
- Council’s requirements should be adhered to (in relation to FSR non-compliance)
- Residents in Torrington Road who are not impacted have been considered in preference to residents in Duncan Street.
- Substantial FSR non-compliance of over 20%

The non-compliance with FSR on its own does not indicate overdevelopment of the site. The proposal complies with height, carparking, setbacks to all sides except for the southeastern side at first floor level, landscaping and private open space requirements. The high level of compliance with Council’s controls is a clear indication that the subject site can accommodate the scale of development proposed. The Duncan Street elevation of the building has been articulated into three distinct parts and balconies and wall projections provide additional relief.

The proposal has been assessed in accordance with Council’s codes and policies and having regard to the existing context in both Duncan Street and Torrington Road. The applicant has submitted a valid SEPP 1 objection in relation to the non-compliance and in this circumstance Council may allow variance to the statutory standard. The objector’s property boundaries align with The Corso and do not align with any of the boundaries to the subject site. This resident therefore has an oblique view of the development and will not have their outlook significantly affected by the development.

6. TECHNICAL OFFICERS COMMENTS

The application has been referred to the relevant technical officers, including where necessary external bodies and the following comments have been provided:-

6.1 Director of Assets & Infrastructure

The following comments have been received from the Director, Assets & Infrastructure:

An application has been received for alterations and additions to the existing dual occupancy at the above site.

Landscape Comments
There are no existing trees, (covered by Council’s Tree Preservation Order), that will be affected by this proposal.

Conditions suggested by Assets & Infrastructure have been included in the proposed conditions of consent see Conditions 28-41.
6.2 Heritage

Council’s Heritage Officer has not prepared detailed comments on the application, however referral was made due to the development being located nearby a heritage item on Duncan Street. Council’s Heritage Officer has noted that no objection is raised to the proposed form, materials and finishes.

7. MASTER PLANNING REQUIREMENTS

There are no master planning requirements as the site has an area less than 4,000m².

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The Development application has been assessed in accordance with the provisions of the following relevant planning documents:

- Randwick Local Environmental Plan 1998 (RLEP)
- State Environmental Planning Policy 1 – Development Standards (SEPP 1)
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- Environmental Planning and Assessment Act 1979 as amended (EP&A Act)
- Building Code of Australia (BCA)

(a) Randwick Local Environmental Plan 1998

The site is zoned 2(a) under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council’s consent. The following Clauses of the LEP 1998 apply to the proposal:-

<table>
<thead>
<tr>
<th>CLAUSE</th>
<th>Requirement</th>
<th>Provided</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 Strata Subdivision</td>
<td>Consent Required</td>
<td>Draft Plans Provided</td>
<td>Yes</td>
</tr>
<tr>
<td>30 Minimum Allotment Sizes</td>
<td>900m²</td>
<td>539.5m²</td>
<td>N/A Previously Approved</td>
</tr>
<tr>
<td>30(3) Strata subdivision</td>
<td>450m²</td>
<td>539.5m²</td>
<td>N/A Alts &amp; Adds</td>
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<tr>
<td>30(4) Erection of attached dual occupancy</td>
<td>12m frontage</td>
<td>13.41m</td>
<td>N/A Alts &amp; Adds</td>
</tr>
<tr>
<td>31(1) Landscape Area</td>
<td>40% of site area (215.8m²)</td>
<td>43% (236.7m²)</td>
<td>Yes</td>
</tr>
<tr>
<td>31(3) Landscaped Area over basements (maximum)</td>
<td>Not to exceed 50% of landscaped area requirement (25% of site area) (107.9m²)</td>
<td>0%</td>
<td>Yes</td>
</tr>
<tr>
<td>32(1) FSR</td>
<td>0.5:1 (269.75m²)</td>
<td>0.61:1 (329m²)</td>
<td>No</td>
</tr>
<tr>
<td>33(1) Building Height</td>
<td>9.5m</td>
<td>8.9m</td>
<td>Yes</td>
</tr>
<tr>
<td>33(3) External Wall</td>
<td>7m</td>
<td>6.2m</td>
<td>Yes</td>
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</tbody>
</table>
A detailed assessment of the proposal against the clauses of the LEP dealing with landscaping, height and FSR is provided in sections 9.6, 9.1 and 9.2 of this report (below).

(b) SEPP 1

An objection under SEPP 1 has been lodged to support the non-compliance with Council’s 0.5:1 Floor Space Ratio standard of the LEP 1998.

The objection to this clause made under SEPP 1 are discussed in detail under section 9.2 of this report.

(c) SEPP 55 - Remediation of Land

Clause 7(1)(a) of the SEPP requires Council to consider whether the land is contaminated. Notwithstanding that site investigations have not been carried out, the current and previous use of the site and surrounding sites for residential uses would substantially reduce the possibility of contamination.

It is considered reasonable to assume that the site would not be contaminated, or in need of remediation pursuant to SEPP 55 and that the site is suitable for continued residential use.

(d) EP&A Act

An assessment of the proposal in accordance with section 79C of the Act has been provided in section 9 of this report.

8.1 Policy Controls


Discussion of compliance with the requirements of the Dwelling Houses and Attached Dual Occupancies DCP is included in section 9 of this report.

<table>
<thead>
<tr>
<th>CONTROLS</th>
<th>PERFORMANCE REQUIREMENTS</th>
<th>PREFERRED SOLUTIONS</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOLAR ACCESS</td>
<td>P1 New dwellings must</td>
<td>S1 New dwellings provide</td>
<td>Complies</td>
</tr>
<tr>
<td>CONTROLS</td>
<td>PERFORMANCE REQUIREMENTS</td>
<td>PREFERRED SOLUTIONS</td>
<td>COMPLIANCE (how applicant has achieved performance requirements of performance solutions)</td>
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<tr>
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</tr>
<tr>
<td></td>
<td>achieve (Nathers) rating of 3.5 stars.</td>
<td>certificate complying with a minimum (Nathers) rating of 3.5 stars or equivalent.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Design minimise energy for heating, cooling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>High thermal mass materials.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Solar hot water systems.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Insulated hot water pipes.</td>
<td></td>
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<tr>
<td></td>
<td>Hot water tanks and heaters close to rooms where hot water used.</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Cooking tops located away from windows, fridges and freezers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Task lights.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maximised natural lighting.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ceiling and wall insulation to AS2627.1-1993.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>P2 Orientation and design maximises solar access to living areas and open space.</td>
<td>S2.8 North-facing windows to living areas received at least 3 hours of sunlight over part of their surface between 9.00am and 3.00pm on 21 June.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S2 Private open space receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S9 North-facing windows to living areas of neighbours receive 3 hours of sunlight over part of their surface between 9.00am and 3.00pm on 21 June. If less available the amount is not reduced.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S9 Neighbour’s principal outdoor area receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June. If less available the amount is not reduced.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td>P9 Neighbour’s north-facing living area windows receive at least 3 hours of sunlight over part of their surface between 9.00am and 3.00pm on 21 June. If less is already available the amount is not reduced.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>P9 Neighbour’s principal outdoor area receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June. If less is already available the amount is not reduced.</td>
<td></td>
<td></td>
</tr>
<tr>
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</tr>
<tr>
<td>WATER MANAGEMENT</td>
<td>P1 Stormwater disposal systems: collect and drain to a suitable disposal system; do not adversely affect existing downstream systems; fit in with hydrology; use on–site stormwater infiltration; maximise opportunities for stormwater re-use stormwater; retain existing trees.</td>
<td>S1 Stormwater is graded and drained via a gravity system to Council’s street gutter; or to a suitable absorption system.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td>P2 Water consumption minimised inside dwelling .</td>
<td>S2 Triple A rated fixtures. Dual flush toilets installed.</td>
<td></td>
</tr>
<tr>
<td>LANDSCAPING &amp; OPEN SPACE</td>
<td>P1 Landscaped areas suit requirements of the dwelling occupants.</td>
<td>S1 40% of the total site area is landscaped.</td>
<td>43% Complies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S1 25m² of useable private open space per dwelling.</td>
<td>52m² Provided</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S1 Minimum dimensions are 3m x 4m.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S1 Private open space is located behind the building line.</td>
<td>Provided. Condition 2 requires solid fencing to preserve privacy to open space of Unit 1.</td>
</tr>
<tr>
<td></td>
<td>P2 Location and design of private open space: allows year-round use minimises impact on neighbours addresses privacy and sun access addresses surveillance, privacy and security.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>P3 Local indigenous plant species used.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>P4 Existing trees and shrubs retained.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>P5 Planting will not obscure or obstruct dwelling entities or personal safety.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>P6 Unpaved or unsealed</td>
<td></td>
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</tbody>
</table>
### Controls Performance Requirements

<table>
<thead>
<tr>
<th>Controls</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>(how applicant has achieved performance requirements of performance solutions).</td>
</tr>
<tr>
<td></td>
<td>landscaped areas are maximised.</td>
<td></td>
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</tr>
</tbody>
</table>

### Height, Form & Materials

<table>
<thead>
<tr>
<th>Controls</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>P1 Height relates to surrounding streetscape.</td>
<td>S1 Maximum 7m external wall height for house or attached dual occupancy.</td>
<td>6.2m Complies</td>
</tr>
<tr>
<td></td>
<td>P2 Designed to enhance built form and character of street.</td>
<td>S1 Maximum 3.5m external wall height of buildings or additions to the rear.</td>
<td>Garage 2.4m Complies</td>
</tr>
<tr>
<td></td>
<td>P3 Design relates to the topography with minimal cut and fill.</td>
<td>S3 Cut or fill does not exceed 1m.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>P4 Design preserves privacy and natural light access to neighbours.</td>
<td>S3 No excavation within 900mm of side boundary.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>P5 Second storey of a semi detached dwelling integrates with streetscape and adjoining dwelling.</td>
<td>S3 No excavation within 3m of rear boundary.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>P6 Design allows view sharing.</td>
<td>S4 Length of second storey portion is not greater than 12m at less than 1.5m from a southern boundary.</td>
<td>16m long at 900mm to southeastern boundary. Increased setback would not achieve significant benefit (see discussion below).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S5 Second storey potion of a semi is confined within a existing roof space or setback from the front elevation and respects the symmetry of the adjoining semi.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Building Setbacks

<table>
<thead>
<tr>
<th>Controls</th>
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<th>Preferred Solutions</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Front Setback</td>
<td>S1 The average of adjoining dwelling or 6m setback where no adjoining dwelling.</td>
<td>5.6-6.0m consistent. Complies</td>
</tr>
<tr>
<td></td>
<td>P1 Generally conforms with adjoining development or dominant setback along street.</td>
<td>S1</td>
<td></td>
</tr>
<tr>
<td>CONTROLS</td>
<td>PERFORMANCE REQUIREMENTS</td>
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<td>COMPLIANCE (how applicant has achieved performance requirements of performance solutions).</td>
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</tr>
<tr>
<td>Rear Setback</td>
<td>P2 Allow neighbours adequate access to natural light, view sharing and retains trees and vegetation.</td>
<td>Rear Setback S2 No closer than 4.5m.</td>
<td>Building 15m Garage1-2m Complies</td>
</tr>
<tr>
<td>Side Setback</td>
<td>P3 Allow occupants and neighbours adequate access to natural light, daylight and fresh air. Side setbacks on corner allotments must integrate with established setbacks of both streets and maintain the streetscape.</td>
<td>Side Setback S3 900mm for any part over 1m above ground level up to one level in height. 1.5m for any part of a building, two levels at that point.</td>
<td>Ground: Southeast 900mm Northwest 2.3m Complies First: Southeast 900mm Doesn’t comply (see discussion under section 9.7) Northwest 2.3m Complies</td>
</tr>
</tbody>
</table>

**VISUAL & ACOUSTIC PRIVACY**

<p>| P1 Overlooking neighbouring internal living areas and private open spaces is minimised. | S1 Habitable room windows with direct outlook to others windows within 9m are offset by more than 45 degrees or have fixed obscure glazing or sill height to 1.5m. | S1 Direct view into the private open space of adjoining dwelling is obscured or screened within 9m. S1 Windows have sill heights of 1.5m or more above floor level or fixed obscure glazing to any part of the window less than 1.5m above floor level. | Translucent film to 1.5m above FFL to S/E windows. Complies |
| P2 Balconies provide adequate privacy for occupants. | S3 Buildings comply with •AS-2107: Acoustics – recommended design sound levels and reverberation times for building interiors. | Complies |
| P3 Dwellings close to noise sources such as busy roads or industry designed to provide comfortable living and sleeping environment. P1 Buildings provide comfortable living and sleeping environment. | | Complies |</p>
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>SAFETY AND SECURITY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P2 Entries are readily identifiable.</td>
<td>S1,2,3 Front doors visible from street.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P3 Front fences, landscape areas and driveways promote safety and security.</td>
<td>S1,.3 At least one habitable room window overlooks the street.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>S2 Street number displayed.</td>
<td>Conditioned</td>
<td></td>
</tr>
<tr>
<td></td>
<td>S3 Fences comply with fencing requirements.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>GARAGES, DRIVEWAYS &amp;</td>
<td>Note: Council’s car parking DCP requirements:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CAR PARKING</td>
<td>1-2 bedroom 1 space</td>
<td>4 spaces</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3 bedroom 2 spaces</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P1 Are located and designed for convenience and safety. enable the efficient use of car spaces. safe, efficient, adequate manoeuvrability.</td>
<td>S1 Car parking spaces have minimum dimensions of 5.5 metres x 2.5 metres.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Driveways have a minimum width of three metres and are set back at least one metre from the side boundary (max width 3m at boundary). Driveway gradients have a maximum of 1 in 6. The gradient for the first 5m from street not more than 1 in 8.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Garages and carport to a rear lane are 1m setback.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P2 Do not breach the predominant building line.</td>
<td>S2 Carports and garages located behind the building where rear access available, or behind building line where front access available.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P3 Do not detract from the streetscape and are compatible with the dwelling.</td>
<td>S3 Driveways, car parking facilities &lt;35% of frontage.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P4 Car parking areas and accessways facilitate stormwater infiltration on site.</td>
<td></td>
<td></td>
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</tbody>
</table>
### CONTROLS

<table>
<thead>
<tr>
<th>REQUIREMENTS</th>
<th>PREFERRED SOLUTIONS</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>P6 Uncovered parking areas suitably landscaped.</td>
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</table>

### FENCES

<table>
<thead>
<tr>
<th>REQUIREMENTS</th>
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<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>P1 Front fences are integrated with streetscape.</td>
<td>S1 Sandstone fences and walls are retained/recycled. Solid front fences in front of the building line no higher than 1.2m. Fences in front of the building line no higher than 1.8m with upper two thirds at least 50% open. (Not applicable in Heritage Conservation Areas).</td>
<td></td>
</tr>
</tbody>
</table>

b. Development Control Plan Parking (DCP Parking), 1998

The amended proposal complies with the number of spaces required, driveway location, width and gradient controls. Council’s Traffic and Parking Engineer has commented on the proposal and is satisfied that it meets the requirements of Council’s DCP Parking, subject to conditions of consent (see Conditions 28-36).

9. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

9.1 Height

The development has an overall height of 8.9 metres and complies with the statutory standard of 9.5 metres. The maximum wall height of the development is 6.2 metres, which also meets that permissible for development on the site, being 7 metres.

The objective of the wall height standard is to set upper limits for the height of buildings in residential and business zones that are consistent with the redevelopment potential of land in those zones given other development restrictions, such as floor space and landscaping, and have regard for the amenity of surrounding areas.

The proposed development is consistent with the bulk and scale of surrounding properties and will not have an adverse impact on the existing streetscape. The
increased height of development on the site will not result in significant overshadowing, view nor privacy impacts.

The height of the proposal achieves numeric compliance and the stated objectives of the height standard. The development is satisfactory with regard to height.

### 9.2 Density

The proposed development has a floor space ratio (FSR) of 0.61:1 (329m$^2$), which exceeds that permissible under clause 32(1) of the RLEP 98 for a development on the site, being 0.5:1 (269.75m$^2$). The applicant has submitted an objection under State Environmental Planning Policy No.1 - Development Standards, and has argued that strict compliance with clause 32 of Randwick LEP 1998 is unreasonable and unnecessary in the circumstances for the following reasons:

- The floor space ratio of the adjoining developments at Nos. 21 and 23 Torrington Road are equal to or greater than the current proposal.
- The proposal is a two storey structure which is entirely compatible with the existing locality, which is characterised by substantial 2 and 3 storey dwellings.
- The landscaped area provision on the subject site is well in excess of the 40% requirement under the Dual Occupancy DCP.
- The overall height and wall height of the proposed development are well below Council’s requirement.
- The front setback is in accordance with Council’s requirement and generally consistent with the prevailing front setback of adjoining properties.
- The rear building setback is also consistent with Council’s requirement and the prevailing character.

The objective of the floor space ratio (FSR) standard is to establish a reasonable upper limit for development in residential zones through a limit on the amount of floor space that can be provided. This will help to reduce the potential for adverse impact on nearby and adjoining development while still providing for reasonable levels of development and redevelopment. An accepted measure of the impacts on amenity is the degree of compliance a proposal achieves with Council’s amenity standards for overshadowing, visual privacy, views etc.

Consistent with the objective of the FSR standard, the development minimises impacts to neighbouring properties despite the non-compliance of the proposal with the density standard of 0.5:1. The high level of compliance the proposal achieves with Council’s statutory and non-statutory development controls indicates the proposal does not represent an overdevelopment and can be accommodated on the site without adverse impact.

Dwellings in the 2A zone can have a floor space ratio of up to 0.65:1, which is greater than the floor space ratio of the proposal. A dwelling house on this site may have a maximum FSR of 0.54:1. The development exceeds the maximum FSR for a dwelling house by 0.07:1 or 37m$^2$. 
The building form approximates the length and bulk of adjoining properties to the east on Torrington Road. A reduction in the floor area of the building by 40m² would probably be achieved by reducing the upper level of the building to the rear. This would not result in a significant reduction in visual bulk or an improvement to the outlook of properties in Duncan Street, as 21 Torrington Road and properties further to the east approximate or are longer than the proposed building and would still be clearly visible behind the proposed structure, as occurs currently (as indicated by photograph below).

Dwellings on Duncan Street, particularly directly opposite the subject site are large, single storey Federation houses or modern two storey houses that have a bulk commensurate with the proposal. The rendered finish proposed to the development is also consistent with the contemporary dwellings in the area. The elevations of the building are well-articulated with balconies, projections and detailing of the cement rendering. The roof form has also been punctuated by extending wall elements beyond the eaves level to provide visual interest to the roof mass. The additional floor area of the proposal does not result in a significant increase in visual bulk due to the articulation provided to the building form.

Above: Looking east from Duncan Street, properties adjoining the subject site are in clear view. Existing building on subject site cannot be seen and proposal will approximate rear deck on adjoining property (21 Torrington Road).
The increase in size of the existing attached dual occupancy on the site is considered to represent a reasonable level of redevelopment, consistent with the objectives of the FSR standard and the density envisaged in the 2A zone. The reasonableness of the proposal is illustrated by compliance with Council’s height, carparking, landscaping and streetscape controls.

The existing building is dilapidated and has been the subject of vandalism on several occasions. A redevelopment of the existing building will increase the variety of accommodation available in the area and will improve the appearance of the existing building from the street on this prominent corner site.

The non-compliance with the floor space ratio standard contained in clause 32 of the Randwick LEP will not result in significant impacts on adjoining development and therefore strict compliance is unnecessary in the circumstances of the case. It would be unreasonable to enforce compliance with the FSR standard contained within the RLEP when the proposed development on the site achieves the underlying purpose of the standard and meets Council’s controls with regard to streetscape, residential amenity and parking. It is considered that SEPP 1 objection is well founded and should be supported.

9.3 Desired Future Character

The site is located in area of mixed character. Dwellings have been constructed over a wide time period and range from the heritage listed 1930’s bungalow at 6 Duncan Street to more contemporary two storey dwellings.

The building has incorporated design elements that provide residential scale such as balconies and elements that are reminiscent of previous eras such as the decorative profile to wall elements which form a partial parapet to the roof.

The contemporary design of the proposal has considered the existing development and will make a positive contribution to the mixed character of the area.

9.4 Site Analysis

A site analysis plan was provided with the application. The site has been considered in terms of existing development, topography and vegetation. The proposal represents a low density development that will maintain the residential character of the area and will not compromise the amenity of surrounding properties.

The site is a corner allotment and the proposed design addresses both Torrington Road and Duncan Street frontages with the provision of balconies and windows to these frontages to engage residents with the street and provide passive surveillance. The garaging proposed to The Corso is consistent with the predominant pattern in this street. The proposal is satisfactory with regard to site planning.

9.5 Ecologically Sustainable Development
The proposal meets the requirements of the DCP maintaining existing solar access to the adjoining property to the southeast during midwinter mornings 9am-11am. Additional overshadowing will occur to the rear yard of this property between 12pm and 3pm, however the increased shadow will only affect approximately 50% of the rear yard. As discussed under sections 9.1 Height and 9.7 Setbacks, the proposal meets the height standard and an increase in the side setback would not result in a significant reduction of shadow impacts to 21 Torrington Road due to the orientation of the allotments.

The building encourages passive ventilation to both dwellings by providing operable windows to the front, rear and side elevations in accordance with ESD principles.

The applicant has submitted a NatHERS report of the dwellings in the proposed development, which shows that both dwellings achieve a minimum rating of 3.5 stars, which complies with Council’s preferred solution.

The proposal is considered acceptable in relation to solar access and energy efficiency.

9.6 Landscaping and Private Open Space

The development provides 43% (236.7m²) of the site area as landscaping. This exceeds the statutory requirement under clause 31(1) of the RLEP98 of 40% (215.8m²) by approximately 20m². As all of this landscaping occurs at natural ground and no basement or podium levels are proposed the development also meets the statutory standard under clause 31(3) of the RLEP98.

The DCP requires that a minimum of 20% of the site area be treated with permeable (soft) landscaping. The proposal provides 36% (196m²) of the site area as soft landscaping and complies with this requirement.

The objective of the landscaping standards is to establish minimum requirements for the provision of landscaping to soften the visual impact of development, assist in the reduction of urban runoff and provide adequate areas of open space for recreational purposes. The proposal meets this objective.

In order to improve the existing streetscape in Duncan Street, the applicant is to provide funds for street planting along the naturestrip of four street trees as stipulated by Condition 4.

9.7 Building Setbacks

The development provides setbacks to all boundaries. The front (northeastern) setback of 5.6-6.05 metres is as existing and maintains the established pattern in Torrington Road. The building is setback 15 metres from the rear boundary which more than complies with the preferred solution of 4.5 metres. The garage is setback 1-2 metres from the rear boundary which is consistent with the predominant pattern on The Corso.
To the northwest (Duncan Street) the building is setback 2.3 metres from the boundary on both ground floor and first floor levels. This exceeds Council’s preferred solution of 900mm for the ground floor and 1.5 metres for the first floor level. The setback to the southeastern boundary is 900mm, which meets Council’s preferred solution at the ground floor level, but does not meet the first floor level requirement of 1.5 metres by 600mm.

Privacy impacts of this non-compliance have been minimised through the orientation of balconies towards the front and rear of the site and away from the adjoining property to the east. The amended plans indicate translucent film to a height of 1500mm above finished floor level to first floor bedroom and family windows which have outlook to the southeast to minimise visual privacy impacts on the adjoining dwelling as a result of the reduced side setback.

Compliance with the setback to the southeastern elevation would not significantly improve solar access to adjoining properties. The overshadowing impacts of the development generally occur as a result of the length of the northwestern elevation, and not as a result of the southeastern setback. Increasing the distance between the building and southeastern boundary would not result in significant benefits for the adjoining property in terms of overshadowing.

The adjoining dwelling to the southeast has a similar setback to the proposal and a similar building bulk. The proximity of the building to the southeastern boundary will not result in excessive visual bulk impacts on this property.

The proposal provides adequate soft landscaping on the site, despite the lack of planting along the southeastern boundary. The non-compliance with the side setback will not result in significant impacts on the landscape character of the area, and will not increase stormwater runoff.

The existing building does not meet side setback requirements either. The proposal reduces impacts of this non-compliance on the street by providing a less bulky roof form and reorienting the roof form to reduce the bulk on the site when viewed from Torrington Road (the short frontage). Maintaining the existing non-compliance on the southeastern side has allowed the building to be set further back from Duncan Street, allowing for greater articulation of the building to this long frontage.

The development is considered satisfactory with regard to the building setback requirements of Council’s Dwelling Houses and Attached Dual Occupancies DCP.

9.8 Privacy

Properties across Duncan Street, Torrington Road and The Corso are sufficiently separated from the subject site to ensure overlooking does not occur. Where possible, living areas and balconies to the development have been oriented to the street and rear yard of the subject site, rather than towards the adjoining property at 21 Torrington Road.
First floor level windows to bedrooms and a family room of the easternmost dwelling will be treated with translucent film to a height of 1.5 metres above finished floor level to obscure outlook and ensure overlooking is minimised. The proximity of the proposal and the adjoining building to the common boundary reduces opportunities for outlook from the first floor level to the rear yard of the adjoining dwelling.

The rear balconies to the Bedroom 1 of each unit are narrow (1.2 metres wide) and have solid edges to the southeast to minimise opportunities for overlooking. The balconies are located off bedrooms which further reduces opportunities for nuisance or privacy impacts from these small balcony areas.

The development has incorporated features to mitigate privacy impacts and meets Council’s performance requirements and preferred solutions.

9.9 View Sharing

The building will not have a significant impact on the availability of views from surrounding properties. Although the coastline is nearby, the minimal slope of Torrington Road in this area and existing development in the vicinity of the site currently obscures expansive outlook to east and southeast from the subject site and surrounding properties. The development represents a small increase in height but a reduction in the bulk of the roof form and has a maximum overall height and wall height within the limit set by the RLEP 98.

The development will not reduce existing view opportunities and is satisfactory with regard to view and outlook sharing.

9.10 Safety and Security

The development meets the requirements of Council’s DCP with regard to safety and security. Dwelling entries are articulated by porches and the entries are visible from the street. Both dwellings have outlook to Torrington Road from ground and first floor level living areas and the westernmost dwelling has outlook to Duncan Street. Fencing to all street frontages meet Council’s requirements and allow for surveillance of the street.

The development meets the safety and security requirements of Council’s Dwelling Houses and Attached Dual Occupancies DCP.

9.11 Parking

The development meets Council’s requirements with regard to resident car parking, providing two spaces to each dwelling. The driveway width and gradient proposed from The Corso meets Council’s requirements. The garages have been setback 800mm from the rear boundary and almost 7 metres from the kerb and exceed Council’s requirements for visibility and pedestrian safety.

The development is considered to be satisfactory with regard to parking provision.
9.12 Fences

Fencing is proposed to all street frontages that results in a solid brick base of approximately 300mm with metal rail above to a height of 900mm. This meets Council’s requirements for overall height and transparency of fencing. Details such as a planter box at the corner of Torrington Road and Duncan Street will make a positive contribution to the street.

The open-style fencing is considered inappropriate to the southern end of the Duncan Street frontage, as the main private open space of Unit 1 is located there. The open style fencing along the northwestern boundary is to be terminated in favour of a solid rendered wall 1.8 metres high for a length of 10 metres where the rear yard occurs. The 50% open style fencing should then recommence and be continued along the part of the boundary occupied by the garage wall. This has been included as a condition of consent (see Condition 2) to ensure the privacy of the open space to Unit 1 without significant impact on the streetscape.

A dividing fence between the rear yards of each dwelling to a height of 1.8 metres will maintain privacy between the dwellings.

A minor discrepancy between the fencing shown on the northeast (Torrington Road) elevation and the plans has been resolved by condition of consent requiring this fencing to be 50% open as indicated on the plans (see Condition 3), and not 1.2 metres solid as indicated on the elevation.

The development is considered satisfactory with regard to the objectives for fencing under section 4.8 of the Dwelling Houses and Attached Dual Occupancies DCP.

10. CONCLUSION

The SEPP 1 objection lodged with respect to the non-compliance with the maximum floor space ratio of the development is considered to be well founded in the circumstances.

It is considered that the proposed building is appropriate on the site given the desired future character of the area, the objectives contained within the RLEP98 and the Dwelling Houses and Attached Dual Occupancies DCP. The development proposes a building envelope, height and façade treatment that generally meet the criteria and fulfil these objectives.

The proposal will not have a significant impact on surrounding properties and the non-compliances with statutory and policy controls will not exacerbate impacts. The application is therefore recommended for approval subject to conditions of consent.

RECOMMENDATION:

A. THAT the Council support the objection under State Environmental Planning Policy No. 1 (SEPP No. 1) in respect to non-compliance with Clause 32(1) of the
ITEM 5.2

Randwick Local Environmental Plan 1998 (relating to floor space ratio) on the grounds that the proposed development complies with the objective of the clause and will not adversely affect the amenity of the surrounding locality as follows, and that the Planning NSW be advised accordingly:

AND

B. THAT Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No 1167/2002 for Alterations and additions to existing attached dual occupancy resulting in 2 x 4 bedroom units, addition of garage and carport structure to the rear, new boundary fencing and amend existing strata plan to reflect building changes at 19 Torrington Road, Maroubra subject to the following conditions:-

REFERENCED PLANS:

1. The development must be implemented substantially in accordance with the plans numbered DA1a-DA5a and DA7a, dated August 2002 and received by Council on 14 March 2003, plan numbered DA6 and DA13 dated November 2002 and received by Council on 12 December 2002 and two sheets of amended draft strata plans stamped received by Council on 31 March, 2003, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

2. The front fencing along the northwestern (Duncan Street) boundary is to be solid to a height of 1.8 metres for 10 metres where the private open space to the rear of Unit 1 is located. The fence is to be constructed of rendered masonry and is to be finished to match the masonry base and piers forming the fence along the remainder of the boundary. Fencing to either end of this 10 metre section is to be as shown in the plans submitted to Council. This condition is imposed to ensure the privacy and amenity of the private open space to Unit 1. Details required by this condition are to be submitted with the Construction Certificate application.

3. The front fencing along the northeastern (Torrington Road) boundary is to be constructed as indicated on the plans (masonry base and piers with metal infill) and not as solid as shown on the elevations. This condition is imposed to clarify a discrepancy in the drawings and ensure a consistent streetscape presentation to the development. Details required by this condition are to be submitted with the Construction Certificate application.

4. The applicant shall submit a total payment of $580.00 to Council, being the cost for Council to supply and install 4 x 45 litre street trees at the completion of all works.

The contribution shall be paid into Fee Code 525 at the Cashier on the Ground Floor of the Administrative Centre prior to an occupation certificate being issued for the development.
The applicant shall present the receipt at the Asset and Infrastructure Services counter on the First Floor to organise for the works to be undertaken.

5. Upon completion of the development and prior to the issuing of the strata subdivision, documentary evidence is to be submitted to the Council by the Principal Certifying Authority (or other suitably qualified person on behalf of the owner of the premises, to the satisfaction of Council) which confirms that the development has been carried out in accordance with the relevant development consent conditions.

6. Landscaping shall be provided to the site to reduce the impact of the development upon the amenity of the environment and a detailed landscape plan shall be submitted to and approved by the Director of Planning & Environment, in accordance with section 80A(2) of the Environmental Planning and Assessment Act 1979, prior to the commencement of any works.

7. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (ie. a schedule and brochure/s or sample board) are to be submitted to and approved by Council’s Director of Planning & Environment, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the proposed development.

8. The consumption of water within the building shall be minimised by the use of triple A rated water efficient plumbing fixtures (taps and shower roses) and water efficient dual flush toilets. Details of compliance are to be provided in the construction certificate plans or specifications.

9. The building is required to be provided with a smoke alarm system complying with Clause 3 of Specification E2.2a of the B.C.A. or a smoke detection system complying with Clause 4 of Specification E2.2a of the B.C.A. or a combination of a smoke alarm system within the sole-occupancy units and a smoke detection system in areas not within the sole-occupancy units.

10. Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

11. Prior to the commencement of any building work, a principal certifying authority must be appointed and Council is to be notified accordingly and, at least 2 days notice of the intention to commence building work must be given to Council, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.
12. A Registered Surveyor’s check survey certificate or compliance certificate is to be forwarded to the principal certifying authority (and a copy is to be forwarded to the Council, if the Council is not the principal certifying authority), detailing compliance with Council’s approval at the following stage/s of construction:

(a) Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being constructed at the approved levels.

(b) On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying the building has been constructed at the approved levels.

13. Building and demolition works must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive, between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and public holidays, except with the specific written authorisation of Council’s Manager of Environmental Health and Building Services.

14. A sign must be erected on the site in a prominent, visible position, prior to commencing any demolition, excavation or building works, stating that ‘unauthorised entry to the site is prohibited’ and showing the name of the person in charge of the work site and a telephone number at which the person may be contacted outside working hours.

In the case of residential building work, the sign is also required to detail the licence number of the building contractor or the permit number of the owner-builder, in accordance with the Home Building Act 1989 and Regulations.

15. Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

16. Noise emissions during the construction of the building and associated site works must comply with the relevant provisions of the Protection of the Environment Operations Act 1997 & the Noise Control Manual published by the Environment Protection Authority, except as may be amended by the conditions of this approval.

17. Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions and debris at all times.

18. Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written consent of the Council, unless the waste container is located upon the road in accordance with the Roads & Traffic
Authority Guidelines and Requirements, and the container is exempt from an approval under Council’s Local Approvals Policy.

19. Any building/demolition works involving asbestos cement are to be carried out in accordance with the Work Cover New South Wales “Guidelines for Practices Involving Asbestos Cement in Buildings”.

20. A Construction Site Management Plan is to be submitted to and approved by the principal certifying authority prior to the commencement of demolition, excavation or building works. The site management plan must include the following measures, as applicable to the type of development:

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

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain adequate levels of public health and safety. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.


22. Stockpiles of soil, sand, aggregate or other materials must not be located on any drainage line, natural watercourse, footpath, roadway or any public place and the stockpiles must be protected with adequate sediment control measures.

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

23. Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.
A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

Hoarding or fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

24. The public safety provisions and temporary fences must be in place **prior to the commencement of any demolition, excavation or building works** and be maintained throughout construction.

**The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:**

25. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the requirements of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

- has been informed in writing of the licensee’s name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the Home Building Act 1989, or

Where the work to be done by any other person (i.e. an owner builder), excavation or building work must not be carried out unless the Principal Certifying Authority:

- has been informed of the person’s name and **owner-builder** permit number, or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed $5,000.

Details of the builder and compliance with the provisions of the Home Building Act 1989 are to be submitted to Council prior to the commencement of works, on the notice of appointment of the PCA / Intention to commence building work.

26. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.
27. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.

The following conditions are applied to provide adequate security against damage to Council’s infrastructure:

28. The following vehicular crossing deposit requirement is to be complied with prior to a construction certificate being issued for the development, as security for Council or a Council approved subcontractor to construct the vehicular crossing.

   a) $1000.00 - Vehicular crossing deposit

   The vehicular crossing deposit may be provided by way of cash or cheque with the Council and is refundable upon the completion of the Council vehicular crossing by Council or a Council approved subcontractor.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

29. The applicant must meet the full cost for Council or a Council approved contractor to:

   a) Construct concrete vehicular crossings opposite the vehicular entrances to the site, in The Corso frontage, to Council’s requirements/specifications. (The cost will include the removal of rock, if required.)

30. 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.

31. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.

32. Should the existing fence be reconstructed at the southwest corner of the site (at the Duncan St / The Causeway intersection) it is to be reconstructed with a 1.5m x 1.5m splay for the portion of the fence that exceeds 600mm in height above the existing ground level at this location.

33. The proposed planterbox to be constructed at the northwest corner of the site (Torrington Rd/Duncan St intersection) is not to exceed 600mm in height above the existing footpath level at this location.

The following conditions are applied to provide adequate provisions for future civil
works in the road reserve:

34. The Council’s Department of Asset & Infrastructure Services has inspected the above site and have determined that the design alignment level at the property boundary for driveways, access ramps and pathways or the like, must be as follows:

**Torrington Rd Frontage** - Match the back of the existing Council footpath levels.

**The Corso Frontage** – 50mm above the existing top of kerb level or 150mm above the back of the existing layback

Any enquiries regarding this matter should be directed to Council’s Assets & Infrastructure Services Department on 9399 0923.

The design alignment level at the property boundary must be strictly adhered to.

35. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the kerb/footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

36. The above alignment levels and the site inspection by Council’s Department of Asset & Infrastructure Services have been issued at a prescribed fee of $68.20 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

The following conditions are applied to provide adequate consideration for service authority assets:

37. 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.

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

39. A sediment/silt arrester pit must be provided within the site at or near the street boundary prior to the site stormwater discharging by gravity to the kerb/street drainage system;

The sediment/silt arrester pit shall be constructed with:

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
The pit must be constructed from cast in-situ concrete, precast concrete or double brick.

The grate is to be a galvanised heavy-duty grate that has a provision for a child proof fastening system.

A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.

A galvanised heavy-duty screen (Lysaght RH3030 Maximesh or similar) located over the outlet pipe. (Similar to a Mascot GRC stormwater discharge control pit, product code DS3SDC).

A child proof and corrosion resistant fastening system for the access grate (e.g. similar to a Weldlock spring loaded jay-bolt).

The inlet pipeline located on the side of the pit so that the stormwater will discharge across the face of the screen.

A sign adjacent to this pit stating that:

“This sediment/silt arrester pit shall be regularly inspected and cleaned.”

Note: Sketch details of a standard sediment/silt arrester pit can be obtained from Council’s Drainage Engineer.

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

40. That part of the naturestrip 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 'ANL Organic Garden Mix', and re-turfed with Kikuyu turf. Such works shall be completed at the applicants expense prior to the issue of the Occupation Certificate.

The naturestrip upon Council's footway shall be maintained by the applicant in accordance with Council guidelines. Such maintenance shall include, but not be limited to, watering, mowing, fertilising, and the removal of weeds.

41. Approval is granted for the removal of the Umbrella trees located at the front of the site subject to the planting of 2 x 45 litre (container size) replacement trees within the site:

a) The species and location of the replacement trees shall be submitted to and approved by Council prior to the issue of the construction certificate.

Advisory Conditions
The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

ATTACHMENT/S:

A4 reduced plans.

SIMA TRUUVERT
ACTING DIRECTOR PLANNING & COMMUNITY DEVELOPMENT

RACHEL AITKEN
ASSESSMENT OFFICER
Development Application Report

REPORT BY: DIRECTOR of PLANNING & ENVIRONMENT

DATE: 31 January, 2003       FILE NO: 02/00827/GE

PROPOSAL: Demolition of existing dwellings on No.95 and 97 Mason Street and construction of a 6 storey multi unit housing development containing 29 dwellings and basement car parking over 2 levels for 42 vehicles including land subdivision of property No. 106 Boyce Road and strata subdivision of the building.

PROPERTY: 95-97 Mason Street and 106 Boyce Road, Maroubra

WARD: Central Ward

APPLICANT: MGB Australia Pty Ltd
1. EXECUTIVE SUMMARY

The proposed development involves the demolition of the existing dwellings on No. 95 and 97 Mason Street and construction of a 6 storey multi unit housing development containing 29 dwellings and basement car parking over 2 levels for 42 vehicles including land subdivision of property No. 106 Boyce Road and strata subdivision of the building. The application is referred to the Health, Building and Planning Committee as the proposed development is valued at $3.5 million.

The proposed development complies with the 3:1 maximum floor space ratio (FSR) for the site (under Randwick LEP 1998), but departs from the maximum FSR of 2:1 for the residential component of a development. The proposal is also seeking a variation to the 5 storey height limit permissible under Draft Maroubra Town Centre DCP.

The proposed development was notified extensively to surrounding properties and issues raised in the objections included excessive height, FSR, overdevelopment of the site, overshadowing, loss of views and privacy, inappropriate garbage removal, inadequate parking, increased crime and traffic congestion, pedestrian safety, loss of property value and increased noise and air pollution.

The assessment of the application reveals that the proposed development is consistent with the objectives of Draft Amendment No 33 to Randwick LEP 1998, Draft DCP for Maroubra Town Centre, Randwick LEP 1998, DCP – Parking 1998 and DCP 15 Maroubra Junction Commercial Centre, and subject to amendments reducing the upper level to minimise overshadowing, is a reasonable proposal for the site.

The recommendation is for approval subject to conditions.

2. THE PROPOSAL

It is proposed to demolish the existing two storey dwellings on the properties No.95 and 97 Mason Street and to subdivide off the rear half of the property No.102 Boyce Road to create a development site for the construction of a 6 storey multi unit housing development. The original proposal was for a 6 storey development containing 29 dwellings (divided into 27 x 2 bedroom and 2 x 1 bedroom apartments) with basement car parking for 36 vehicles over two levels. An amended proposal was submitted to reduce the visual bulk of the building from the street level so that the building has the appearance of a five storey building. The proposed amended development contains 5 x 1 bedroom and 24 x 2 bedroom apartments with a 42 space carpark. The proposed amalgamated site area is 983 sq m with 102 Boyce Road being reduced in size to 238.15m² after subdivision.

Vehicular access to the basement carparking levels is proposed adjacent to the eastern side boundary of the site. Pedestrian access is proposed from the centre of the sites frontage to Mason Street into a proposed central lift/lobby area. An
equitable access ramp is proposed to the immediate west of the central pedestrian entrance off Mason Street.

The proposed building is to be constructed to the eastern side boundary, and setback 1.5m from the western side boundary of the site. Private landscaped courtyards for ground floor units are to be provided at the rear of the building. A common landscaped open space area with a pergola covered BBQ area is also proposed to the rear of the building, accessed from the central lift lobby area.

Substantial balcony areas are proposed to all residential levels on the street elevation of the building and at the sides of the upper level. On the rear elevation, smaller balconies alternating with planter boxes are proposed over Levels 1 to 4, with terraces provided on the upper level.

The main living areas of the dwellings are orientated to the front northern elevation of the building, with bedrooms orientated to the rear. The upper level is set in from the side boundaries and open space areas to the two units on those sides are of a considerable size in comparison to other units.

Figure 1: Perspective of proposed development from Mason Street.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is located on the northern side of Mason Street within the Maroubra Junction Commercial Centre. The site comprises three lots - No.95 and 97 Mason Street, and No.102 Boyce Road - which extend through to the Mason Street frontage. The site will have a frontage to Mason Street of 33.3m and a depth of 31.25m, and will be of a regular shape following the required dedication of a 4.57m strip of land for road widening purposes along the Mason Street frontage of
the property No.102 Boyce Road and the proposed subdivision of that property into two equal halves.

The proposed development site has an area of 982.64sq.m (i.e. inclusive of the required road widening dedication).

The site has a fairly gentle even slope rising by 2m from the Mason Street frontage up to the rear boundary with Boyce Road properties.

Existing on the site are two freestanding, two-storey brick dwelling houses at No.95 and 97 Mason Street and a single storey brick dwelling house at No.102 Boyce Road.

Adjoining the site to the east is an eight storey mixed use development comprising ground floor commercial premises addressing the Boyce Road frontage and seven levels of residential units above. Adjoining to the west is a two storey brick dwelling house at No.91 Mason Street. Further west and to the north on the opposite side of Mason Street are freestanding dwelling houses. Adjoining to the south are the rear yards of 2, two storey brick dwelling houses at No.104 and 106 Boyce Road.

Figure 2: 95 and 97 Mason Street, Maroubra showing 8 storey residential building to the east. The rear of 102 Boyce Street can be seen on the right.

Figure 3: Rear of 102 Boyce Road with single storey dwelling to the west and part of 97 Mason Street to the west.
4. SITE HISTORY

a. HISTORY OF SITE USEAGE

There is no development application history relating to the site. Each of the properties Nos. 95 and 97 Mason Street and 102 Boyce Road are occupied by freestanding brick dwelling houses.

5. COMMUNITY CONSULTATION:

The original proposal was advertised and notified to surrounding property owners on 17 September 2002. In response to this notification, the following submissions were received:-

Anna Markovina
104 Mason Street
Maroubra 2035
Concerns
- Does not comply with 5 storey height limit,
- Insufficient parking provided,
- Inappropriate proposal for garbage removal,
- Overdevelopment of the site in terms of height and bulk,
- Impact to residents in the form of noise, dust and disruptions.
- The entry should be off Boyce Road as Mason Street has been recently kerbed and guttered.

Amy & Sai Kwong Lo
96 Mason Street
Maroubra Junction
NSW 2035

Concerns
- Non-compliance with 5 storey height limit,
- Non-compliance with FSR,
- Breaches building height plane,
- Inadequate car parking and Mason Street does not have the capacity for off street car parking or for delivery trucks servicing the units,
- Mason Street too narrow to accommodate garbage trucks,
- Creates a dangerous environment for elderly residents through busy traffic, cluttered streets with no space for pedestrians, noise/air pollution from construction,
- Reduced amenity on low scale dwellings created by high rise development.

Jane Peter
26/108-110 Boyce Road
Maroubra 2135

Concerns
- Views to Eastgardens and City will be lost,
- Will diminish surrounding property values,
- Increase in crime due to increased population density,
- Increased density will increase impact on already struggling public transport,
- Overall the proposal increases population and therefore crime, loss of privacy, full buses, higher traffic on Anzac Parade etc.

Dr and Mrs B.C.Lee
78 Mason Street
Maroubra NSW 2035

Concerns
- Garbage disposal area inappropriate,
- Entrance and exit should not be located on Mason Street as it is too narrow,
- The proposal is a serious breach of Council guidelines and it is Council’s duty to enforce its guidelines or to have very good reasons which it should advise residents of in advance if it chooses to ignore those guidelines. Flagrant disregard of Council rules by any developer is vexatious and wasteful of
Council (and taxpayers’) resources and should be penalised to discourage such contemptuous behaviour by developers.

Kevin McEwan and Julia Ivkovic
106 Boyce Rd
Maroubra 2035

Concerns
- Randwick Council did not previously directly notify residents of zoning, FSR and height changes in the area and rezonings went ahead without local resident input. This resulted in large developments being constructed nearby which residents opposed and challenged in the Land and Environment Court but lost. It is asked that the zoning and maximum height on the last remaining commercially zoned properties in the area remain the same.
- Council should encourage transitional, lower scale development adjacent to two storey dwellings.

Eugene Kanevsky & Olga Sidorenko
14/108-110 Boyce Road
Maroubra 2035

Concerns
- The developer does not control all the land in question under the application. For this reason alone the Council should not even consider the application,
- The draft Maroubra Town Centre DCP was created in partnership with the residents the Council a year ago. The Council must therefore decline the application and uphold their partnership with the residents,
- Non compliance with 5 storey height limit,
- Significant non-compliance with FSR requirement. Residential amenity should not be lost for developers profit,
- Breach of height plane,
- Non-compliance with parking requirement,
- Proposal will exacerbate already chaotic traffic situation in Masson Street,
- The parking situation will get worse with the completion of the Maroubra Mall, during peak hour residents of Boyce Street currently can’t get in and out of their garages,
- Issue with garbage collection and difficulties associated with collection. Masson Street narrow, rubbish will be knocked over.

Claire P C Ooi
33/108 Boyce Road,
Maroubra Junction
NSW 2035

Concerns
- The development will only add to the “concrete jungle” look and feel to Maroubra Junction,
- Excessive Height,
- Loss of panoramic views offered by current units,
- Loss of neighbourhood feel of Boyce Road,
- Depreciation of value of property.

Elaine Fung  
77 Mason Street,  
Maroubra 2035

**Concerns**  
- Reiterates concerns raised previously,  
- The storage spaces allotted to each unit do not comply with the regulations requiring 8 sq metres and 10 sq metres for 1 bedroom units and 2 bedroom units.

George Parris  
7/110 Boyce Road  
Maroubra Junction 2035  
- Proposal close to 108-110 Boyce Road.  
- Design is obtrusive and oppressive,  
- The lack of a beautiful design,  
- The proposal will add to existing high-rise which collectively is an eye sore to the junction,  
- Lack of landscaping,  
- Overdevelopment,  
- Proposal will cause physical and mental health problems,  
- Unaesthetic environments add to crime, cause ghettos and bad health,

Rina and Yury Kuczko  
19/108-110 Boyce Road  
Maroubra 2035

**Concerns**  
Reiterates concerns raised above,  
- Cumulative amenity impacts of noise, dust, dirt, traffic hazards, health concerns (such as asthma) safety impacts and a reduction in the quality of lifestyle.

Mr G & Mrs J O’Shea  
26 Macintyre Crescent,  
Sylvania Waters 2224

**4.1 Concerns**  
- Reiterates concerns raised previously,  
- The proposed development should not be approved until Mason Street at the Anzac Parade end is widened to conform with the rest of the properties in Mason Street.

Mrs S Parker  
11/108 Boyce Road  
Maroubra NSW 2035
Concerns
- Reiterates concerns raised previously,
- Proposal increases the existing significant number of units in the area. Combined with other proposals nearby, 108 Boyce Road will be completely enveloped on all sides by high rise developments.

Residents
282 Storey Street
Maroubra NSW 2035

Concerns
Reiterates concerns raised previously,
- Breaching the minimum back boundary requirement of 6m by reducing it to 4.08m by the proposed underground carpark area,
- The proposal is misleading. The developers image shows the Boyce Road high rise without showing the buildings behind. These properties contain single dwellings and should be shown as such. The proposal has not been designed in sympathy with the scale of surrounding developments,
- Concerns such as loss of privacy and natural light and poor architecture are raised.

P Murray and M Syls
42/108 Boyce Road
Maroubra

Concerns
- Reiterates concerns raised previously,
- Insufficient time given to attach proposal on notice board for residents to respond,
- The development increases the number of units in Maroubra

Maureen & Eric Strauss
100 Mason Street
Maroubra Junction 2035

Concerns
- Does not comply with 5 storey height limit,
- Does not comply with FSR,
- Breaches building height plane,
- Does not comply with storage space regulations,
- Does not comply with parking provision,
- Inadequate garbage pick up.

A E Brown and Mrs P Brown
4/108-110 Boyce Road
Maroubra Junction 2035

Concerns
- Impact on traffic and public transport,
- No high rise north of Boyce Rd,
- Development would be to detriment of whole block.

D Xue and L Wang
6A/14 Bligh Place
Randwick 2031

Concerns
- Blocks existing views to the west,
- Already too many apartments in Maroubra,
- Will not add value to surrounding properties

P Fleming and B Murray
29/108 Boyce Rd
Maroubra 2035

Concerns
- Create concrete jungle effect,
- Create an eyesore,
- Will spoil the neighbourhood.

Arthur Perdis
PO Box 546
Kingsford 2032

Concerns
- Exceeds height, building envelope and setback controls,
- Adverse impact in terms of overshadowing, loss of privacy, bulk, scale and size.

The amended proposal, resulting in a reconfiguration of the number of bedrooms in several proposed units on the upper levels and a reduction in floor area of the upper floor by reducing its bulk at the sides and slightly to the front and back, was notified on 16 April 2003 for a period of 14 days to the surrounding properties and Council received the following submissions:

Ms P McAleer
1/108 Boyce Road
Maroubra 2035

Concerns
- Creation of a slum/ghetto,
- Noise from garbage trucks,
- Overshadowing.

Erika Balance
25/108 Boyce Road
Maroubra 2035
Concerns
- Junction is overdeveloped and infrastructure can't support current development,
- No spaces on buses to the city currently,
- Amended proposal does little to improve surrounding area,
- No side setback reduces privacy and encourages burglary,
- Street is unable to cope with service vehicles,
- Overshadowing to adjacent buildings,
- Narrow gap between units creates a wind tunnel,
- Limited open space for recreational pursuits,

Giulio Campobassi
27/108-110 Boyce Road
Maroubra NSW 2035

Concerns
- Over development
- Change of Residential Density from low to high on Boyce Road,
- Cumulative impacts of ongoing construction of multi unit apartments in the area affecting peace and quality of life,
- Overshadowing impacts and view loss,
- Garbage collection problems,
- Increased traffic congestion.

Nader Nasserazizi
P.O. Box 848
Maroubra 2035

Concerns
- Increased noise pollution from cars and people,
- Increased traffic problems and further congestion,
- Increased crime rate as crowds attract thieves,
- Increase strain on our already under manned local police,
- Further direct and indirect cost to Council,
- Further risk of fatal accidents,
- Increased parking problems,
- Overshadowing creating moisture problems causing moisture related defects to buildings,
- Privacy,
- View loss effecting ability to resell.

D Xue and L Wang
22/108 Boyce Road
Maroubra

4.2 Concerns
- Blocks existing views to the west,
- Already too many apartments in Maroubra,
- Will not add value to surrounding properties,
- Cause extra congestion in already congested road.
4.3 Concerns
- Poor Urban Design to Mason Street,
- Excessive height,
- Ground floor ceiling height,
- Excessive FSR,
- Inadequate car parking,
- Entrance/exit to car park should be off Boyce Road,
- Garbage removal from Mason Street not appropriate.

Residents
282 Storey Street
Maroubra

4.4 Concerns
- Oversized, too high, excessive FSR, overshadowing, non compliance with deep root zone requirement, eyesore, dampness effect to adjacent dwellings.

Jane Peter
26/108 Boyce Road
Maroubra

4.5 Concerns
- Increased crime, loss of privacy, overcrowding buses, higher traffic on Anzac parade, excessive amount of development in area.

Eric and Maureen Strauss
100 Mason Street
Maroubra Junction

Concerns
- Excessive height, non-compliance with draft DCP Maroubra Town Centre, non-compliance with FSR, overlooking, loss of privacy, overshadowing, lack of deep soil planting zone, garbage/recycling unacceptable.

Yury & Rina Kuczko (Owners Corporation)
108-110 Boyce Road
Maroubra

4.6 Concerns
- Too close to Boyce Road buildings – should be setback further, proximity to 108 Boyce Road creates unlivable environment,
- Garbage collection dilemma due to narrowness of Mason Street.

Mary Syls
42/108 Boyce Rd
Maroubra
4.7 **Concerns**  
- Devaluation of property, too much high rise, view loss, increased crime, overshadowing, traffic congestion, air pollution and sewerage problems.

Mrs S Parker  
11/108 Boyce Road  
Maroubra

4.8 **Concerns**  
- overdevelopment, excessive height, traffic hazard, increase in crime, increased noise, increased health hazards.

Amy & S K Low  
96 Mason Street  
Maroubra

4.9 **Concerns**  
- Non compliance with no of storeys, height, and FSR, loss of privacy, balconies unattractive and dangerous, garbage/recycling major issue, inadequate visitor parking and service delivery area, entrance should come through Boyce Road.

Claire P.C. Ooi  
33/108 Boyce Road  
Maroubra

4.10 **Concerns**  
- Maroubra Junction already overdeveloped, excessive noise problems already, inhalation of dust from existing construction sites, view loss to west, creation of concrete jungle.

Mr and Mrs Kanevsky  
14/108-110 Boyce Road  
Maroubra

**Concerns**  
- Does not comply with 5 storey requirement, breaches height plane, garbage pick up inadequate, construction to close too adjacent buildings.

The objections raised above are canvassed and addressed within the assessment of the report following.

5.1 **Support**  
No letter of support was received during the notification periods.

6. **TECHNICAL OFFICERS COMMENTS**  
*The application has been referred to the relevant technical officers, including where necessary external bodies and the following comments have been provided:*
6.1 Building and Construction Issues

Under the Building code of Australia, the classification of the proposed building is:

*Class 2 - residential units.*
*Class 7 - car park.*

No objections in relation to building, health and construction matters are raised subject to conditions should approval be granted.

6.2 Landscape Issues

6.2.1 There are several trees, covered by Council’s Tree Preservation Order, that may be affected by the proposed works, including:

102 Boyce Road
a) One (1) *Howea forsteriana* (Kentia Palm) located within the rear yard. This palm is approximately 4 metres tall and in good health. The palm is listed for retention on the plan, however it is recommended that this palm be transplanted to a more suitable location within the site.

b) One (1) *Jacaranda mimosifolia* (Jacaranda) located within the rear yard, close to the eastern property boundary. This tree is an average specimen of no real significance. As such permission should be granted for the removal of this tree.

c) One (1) *Nerium oleander* (Oleander) located within the rear yard, close to the western property boundary. This tree is approximately 4 metres tall and 6 metres broad. The tree is poisonous and as such permission should be granted for its removal.

d) One (1) *Lagerstroemia indica* (Crepe Myrtle) located within the rear yard, close to the western property boundary. This tree is approximately 5 metres tall and 5 metres broad and in reasonable condition. Permission should be granted for the removal of this tree subject to the planting of one replacement tree within the site.

95 Mason Street
a) Two (2) *Arecastrum romanzoffianum* (Cocos Palms) located within Council’s nature strip, hard up against the front property boundary fence. These palms are between 6 and 10 metres tall and are on good condition, however, they will be adversely affected by the proposed works along the Mason Street frontage and as such permission should be granted for the removal of these palms subject to the planting of two replacement street trees.

b) One (1) *Callistemon species* (Bottlebrush) located within Council’s nature strip, within an existing garden bed. This tree is approximately 6 metres tall and on a significant lean to the west. As such permission should be granted for the removal of this tree.

c) One (1) Dead Tree located within the front yard, close to the eastern property boundary. This tree is approximately 6 metres tall and permission should be granted for its removal.
d) Two (2) *Schefflera arboricola* (Umbrella Trees) located within the front yard of the site, close to the western property boundary. These trees are approximately 6 metres tall in average condition. Permission should be granted for the removal of these trees.

e) Two (2) *Cupressus species* (Cypress Pines) located within the front yard. These trees are approximately 10-12 metres tall and in good condition, however, they will be adversely affected by the proposed works and as such, permission should be granted for the removal of these trees, subject to the planting of two replacement trees within the front yard of the site.

f) One (1) *Grevillea robusta* (Silky Oak) located within the rear yard, close to the rear property boundary. This tree is approximately 15 metres tall and in very poor condition. As such permission should be granted for the removal of this tree subject to the planting of one replacement tree within the rear of the site.

g) One (1) *Ficus species* (Fig Tree) located within the rear yard, close to the rear property boundary. This tree is an immature specimen, approximately 6 metres tall and in reasonable health. Permission should be granted for the removal of this tree.

h) Three (3) *Arecastrum romanoffianum* (Cocos Palms) located within the rear yard, close to the southeastern corner. These palms are approximately 15-18 metres tall and in good health. As such these palms should be retained and protected as part of this application.

97 Mason Street

a) Two (2) *Arecastrum romanoffianum* (Cocos Palms) located within the rear yard, close to the eastern property boundary. These palms are approximately 10 metres tall and in good condition, however, they will be adversely affected by the proposed works and as such permission should be granted for the removal of these palms, subject to the planting of two replacement trees within the site.

### 6.3 Drainage Issues

On site stormwater detention is required for this development.

**Flooding comments**

The development site is located adjacent to a localised low point/entrapped low point in Mason Street and may be subject to flooding during major storm events. A flood study (undertaken by Hyder Consulting) has been submitted by the applicant in conjunction with the development application and identifies the 1 in 100 year flood level for the site as being at RL 26.08 (AHD).

All habitable and storage areas shall be a minimum of 300 mm above the 1 in 100 year flood level (i.e. minimum RL of 26.38 (AHD)) and a high point/flood barrier shall be provided across the full width of the driveway (and all other access points to the basement carpark) to at least 150mm above the 1 in 100 year flood level (i.e. to RL 26.23 (AHD)).

The submitted plans, received 20/1/03, show a high point along the internal driveway to the 1 in 100 year flood level (RL 26.08 (AHD)) with part of the roller shutter door being waterproofed to a height of RL of 26.38 (AHD). The EPCD
Department is advised that this proposed method, waterproofing the roller shutter door is considered unacceptable.

The applicant will have to amend the submitted plans, for the construction certificate, to show a floodgate located at the highpoint of the vehicular access which provides a flood barrier to RL 26.23 (AHD). All other access points to the basement carpark are to be at least RL 26.23 (AHD). Provided that the floodgate requirements detailed below are satisfied, the AIS Department does not object a floodgate being used in lieu of the required freeboard.

The floodgates shall be designed by a suitably qualified structural engineer and shall be designed in accordance with the following requirements:

1. The flood gates shall automatically rise when water levels gets to 300 mm below the high point in the driveway
2. Provision shall be made for manual raising and lowering of the floodgates.
3. Warning alarms and lights shall be provided to indicated when the flood gates are being raised and lowered
4. A back up pumping system (with a suitably sized sump) shall be provided in the basement carpark.
5. The floodgates shall be constructed with a full back up system for both power supply and raising mechanism.

Full details of the proposed floodgates, including a maintenance/service schedule, shall be submitted to the certifying authority for approval prior to the issuing of a construction certificate. A copy is to be forwarded to Council should it not be the certifying authority.

A positive covenant shall be created on the title of the subject property detailing the maintenance requirements for the floodgates.

6.4 Traffic/Parking Issues

The circular two way ramps provided to the car park are 5.5 metres wide. AS 2890.1 Off street parking requires a minimum two-way roadway width on a curve of 7.8 metres.

The additional details submitted show stack-parking on carpark level 2 for car spaces 19 to 24, thus it is recommended that a condition regarding carspaces 19 and 24, 20 & 23 and 21 & 22 being allocated to the same units be included.

The parking requirement for the proposed development is 42 spaces, this has been complied with.

Ramp grades

The amended basement and ground floor plan shows a high point of RL 26.08 (AHD) along the full width of the driveway.
The submitted internal driveway gradients do not comply with Council’s DCP however the AIS Dept does not object to this variation as a high point in the internal driveway has to be achieved.

The submitted internal driveway gradients for entrance into Carpark Level 1 do not show dimensions and reduced levels at each point of change in gradient. The EPCD Dept is advised that the as 2890.1-1993 states that changes in grades in excess of 12.5 percent will require a transition of a minimum length of 2.0m.

The EPCD Department is to determine whether the proposed ramp grades along the driveway are satisfactory and whether further details are required prior to issuing development consent.

Prior to the issuing of a construction certificate the applicant shall submit to the Certifying Authority for approval, and have approved, longitudinal sections along the extremities and the center line of the internal driveway/access ramps at a scale of 1:20. Each section shall indicate compliance with Council’s issued alignment levels and the required high points. Vehicular access driveways are to be designed in general accordance with Council’s Development Control Plan – Parking and the relevant sections of AS 2890.1-1993.

Splay Corners

All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level, splayed 1.5 metre by 1.5 metre or suitably setback from the street alignment so that a driver of a stopped vehicle 2 metres behind the street boundary line can observe pedestrians up to 2 metres from the crossings. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate showing compliance with this condition.

Road Dedication Comments

The applicant shall, at no cost to Council, dedicate a 4.57 metre wide strip of land along the Mason Street site frontage for road widening purposes. The applicant must pay to Council a contribution in the amount of $2,789.00 for the cost of Council to carry out civil works in Mason St associated with road widening dedication. The amount has been calculated at $366.00 per lineal metre of site front of 102 Boyce Rd.

6.5 Sydney Airports Corporation Ltd

Under the provisions of the Air Navigation (Building Control) Regulations the concurrence of Sydney Airports Corporation is required for the construction of the proposed development on the subject site, which lies within the Conical Surface of the Obstacle Limitation Surfaces for Sydney Airport. The Corporation have given their approval for the proposed development.

7. MASTER PLANNING REQUIREMENTS

A master plan is not required as the site is less than 4000sq.m in area.
8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The Development application has been assessed in accordance with the provisions of the following relevant planning documents:

- Environmental Planning and Assessment Act 1979 (as amended)
- State Environmental Planning Policy No.1- Development Standards
- State Environmental Planning Policy No.65-Design Quality of Residential Flat Development
- Randwick Local Environmental Plan 1998
- Building Code of Australia

(a) Randwick Local Environmental Plan 1998

The site is zoned General Business 3A under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council’s consent. The following Clauses of the LEP 1998 apply to the proposal:

<table>
<thead>
<tr>
<th>Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause No.</td>
</tr>
<tr>
<td>------------</td>
</tr>
<tr>
<td>30 – Minimum allotment sizes</td>
</tr>
<tr>
<td>32 – FSR</td>
</tr>
<tr>
<td>33 - Building Height</td>
</tr>
</tbody>
</table>

Other Clauses

<table>
<thead>
<tr>
<th>Effect</th>
<th>Applies</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>43 Heritage Item of Conservation Area</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>46 Vicinity of Heritage Item</td>
<td>No</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(b) Randwick Local Environmental Plan 1998 – Draft Amendment No 33.

This proposed amendment introduces new planning and design provisions for Maroubra Junction Town Centre. The proposed development is required to be consistent with specific zone objectives. The proposed development is consistent with the following objectives:
(a) to achieve high quality design in all new developments and improvements undertaken in the public domain;
(c) to provide opportunities for residential development in the town centre which complement the primary business function of the town centre;
(d) to encourage a variety of housing forms which complements development within the town centre and does not impact adversely upon the amenity of surrounding residential areas.

Clauses 31 (Landscaped Area), 32 (Floor Space Ratios) and 33 (Building Heights) of the Randwick Local Environmental Plan 1998 do not apply under the draft amendment. Under the draft amendment, the maximum number of storeys required under the draft Maroubra Junction Town Centre DCP applies. The maximum height of a building is determined by the number of storeys based on the maximum ceiling height per floor shown in the table below:

<table>
<thead>
<tr>
<th>No. of storeys</th>
<th>Maximum building height to underside of ceiling (m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4.5</td>
</tr>
<tr>
<td>2</td>
<td>9.0</td>
</tr>
<tr>
<td>3</td>
<td>12.0</td>
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<td>15.0</td>
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<td>6</td>
<td>21.0</td>
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<tr>
<td>7</td>
<td>24.0</td>
</tr>
<tr>
<td>8</td>
<td>26.7</td>
</tr>
</tbody>
</table>

Under the above provisions, the proposed development is required to have a height of 18m. The proposed height is 20m, therefore exceeding the draft requirements by 2m. Height is discussed in greater detail in section 9.3.1 – Draft Maroubra Town Centre DCP below.

8.1 Policy Controls

The following policy guidelines apply to the proposed development:

b. Section 94 Contributions Plan.
d. Exhibited Draft DCP - Maroubra Town Centre (current draft dated July 2002).
e. Development Control Pan 15 - Maroubra Junction Commercial Centre.

9. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

9.1 SEPP 65 – Design Quality of Residential Flat Development
The development is subject to the provisions of State Environmental Planning Policy No. 65 (SEPP 65) – Design Quality of Residential Flat Buildings. An assessment of the proposal in accordance with the ten design quality principles is included below.

General approach

The proposed development provides an appropriate streetscape presentation to Mason Street. It will result in a quality environment for the future residents and for passers-by. Good articulation is achieved to the front and rear facades of the proposed building through the incorporation of vertical and horizontal elements in a variety of materials and colours. The proposal incorporates ESD principles of northern orientation, outlook and cross ventilation of apartments through appropriate unit layouts which extend the depth of the building and providing north facing balcony/terraces and adjoining open plan living areas thereby maximising northern solar access. The development has been professionally designed by Baker Kavanagh Architects and is consistent with SEPP 65 in terms of its general approach to the site and uses contained within the building.

Principle 1: Context

The proposed development provides for a transition in building bulk and scale between the adjoining eastern 8 storey mixed use development and the neighbouring western 2 storey residential housing. The proposed building adopts a street setback which is compatible with the adjoining development. The proposed building is to comprise residential accommodation only, which is considered appropriate given the site’s surrounding residential context and location at the periphery to the Maroubra Town Centre. The building incorporates a high degree of articulation and architectural detailing and is consistent with the design principles of SEPP65 in this regard. The main balcony/terrace areas of the development are orientated to the street and fire rated glass blocks are proposed within the side walls of the proposed building, thereby minimising the potential for overlooking and loss of visual and aural privacy to neighbouring development.

The proposed development is consistent with principle 1 of SEPP 65.

Principle 2: Scale

The six storey scale of the development, which appears visually as five storeys from Mason Street, provides a visual transition between the eastern eight storey building and western two storey residential housing. The street façade is well modulated and articulated. The upper level of the building is set in on all sides from the main building below. A side setback of 1.5m to the western side, 0.0m to the eastern side and 5.3m setback from the Mason Street frontage. The upper level units fronting Mason Street have a 1m high x 0.9m wide landscaped planter which forms a parapet and obscures the view of the level from Mason Street. These design elements reduce the apparent bulk and scale of the building as viewed from Mason Street giving the impression the building is five storeys rather than six storeys. The area is undergoing a transition in the scale of development (ie a
higher scale of development is noticeable on sites located 20 – 100m either side of Anzac Parade) and the proposed height and bulk reflect the desired future character of the area.

The proposed development is consistent with principle 2 of SEPP 65.

Principle 3: Built Form

The building is suitably articulated to reduce bulk. The proposed design, material and colour treatments to the front façade of the development will create a suitable base, middle and top section for the building, consistent with the design principles of SEPP65. The proposed combination of vertical and horizontal design elements, masonry and glazed balustrading and louvred timber screens to balconies serve to modulate the building façade and create visual interest in the built form.

The proposed development is consistent with principle 3 of SEPP 65.

Principle 4: Density

The expected number of residents and mix of unit sizes is appropriate for the site area and its location close to local shopping amenities and public transport. The proposal offers additional housing choice and meets Council’s requirements for on site parking thereby minimising its impact on the availability of on street parking in Mason Street. The proposal complies with the allowable maximum floor space ratio of 3:1 under the Randwick LEP 1998 and is consistent with the objectives of the density control. The residential FSR component of the proposed development exceeds the 2:1 residential FSR standard of LEP1998. However, given the residential surrounding context of the site and it’s location at the periphery of the Maroubra Commercial Centre, the increased residential content of the development is considered acceptable.

The proposed development is consistent with principle 4 of SEPP 65.

Principle 5: Resource, energy and water efficiency

The proposed development has been designed with these principles in mind. All primary living areas of the units will have direct access to north facing balconies and terraces. The balcony/front terraces of all proposed units will have direct access to northern sunlight. Window openings and balcony depths are suitably proportioned to allow good daylight penetration into the primary living spaces of the units. The dual aspect layout and open plan design of the proposed units ensures that good levels of natural cross-ventilation for the units will be achieved. A Nat HERS Certificate has been submitted with the application demonstrating that all units in the proposal will achieve a minimum 3.5 star rating with most units achieving 4.5 – 5 stars. All fixtures and taps will be required to be of a water conserving type.

The proposed development is consistent with principle 5 of SEPP 65.

Principle 6: Landscape
The site is located within a mixed commercial and residential context where the proposed building is to be sited centrally within the site. Such positioning allows a 5.3m setback from Mason Street and an 8.71m setback from the rear property boundary. Landscaping is proposed to the front of the site in raised planters with some deep root planting over unexcavated areas. The rear proposed ground floor is part private open space and part communal open space. The rear half of these open spaces lies above unexcavated ground allowing deep root planting. It is proposed to retain existing palms and grevilleas in this zone and landscape the area with new plantings including trees, understorey planting and screen planting. Mondo grass, Cypress pines and screen planting are proposed within the 1.5m setback to the western boundary. Planter boxes are proposed to terrace/balcony areas and below window sills for privacy at the rear of the proposal and adjacent to the footpath along the Mason Street frontage. The proposal contains generous amounts of landscaping which will improve the aesthetics and amenity of the development.

The proposed development is consistent with principle 6 of SEPP 65.

Principle 7: Amenity

The development provides indoor and outdoor spaces that will be comfortable and practical to use. Dimensions and layout will appropriately control sunlight to living areas and provide natural ventilation to units. Areas of outdoor open space in the form of terraces and balconies adjoin the main living areas of each unit. Unit layouts and design provides good opportunities for surveillance while maintaining privacy. The development provides for storage within the basement car parking level and for direct access from the Mason Street frontage into the lobby and lift that provides access to the residential levels of the development. Internally, the bedrooms of the proposed units are of generous proportions, with ensuites being provided to main bedrooms, and the living areas are of a convenient, practical open-plan design.

The proposed development is consistent with principle 7 of SEPP 65.

Principle 8: Safety and Security

The proposal provides for good safety and security. Balconies and windows provide surveillance to the street frontages and neighbouring properties, without compromising privacy. The development has minimised the length of internal corridor spaces and has minimised the number of units sharing circulation routes to encourage a sense of community. The pedestrian access point is provided directly from the Mason Street frontage and entrance to the complex is through security gates activated by an intercom at the entrance.

The proposal is consistent with principle 8 of SEPP 65.

Principle 9: Social dimensions
The apartments proposed will complement the existing housing stock in the area in a location that will not significantly affect existing amenity for surrounding residents. The proposal gives consideration to the social context of the site by providing a mix of units that will meet the existing and future needs of the community. The development will support the existing businesses in the area by increasing the number of local residents.

The proposed development is consistent with principle 9 of SEPP 65.

Principle 10: Aesthetics

A colour perspective from Mason Street of the proposal indicates that the overall form and detailing of the building are appropriate and suitable for the site. The proposed fenestration treatment, architectural composition and external finishes of the building’s facade achieve a suitable base, middle and top for the development. The external finishes and colour scheme proposed for the development are satisfactory. The proposed glazed balustrading to balconies in the middle apartments gives greater transparency to the development.

Conclusion:

The proposal has been reviewed with regard to the design principles and is considered satisfactory with regard to the provisions of SEPP 65.

9.2 Randwick LEP 1998

9.2.1 Floor Area

A 2.0:1 maximum residential and 3.0:1 maximum overall floor space ratio (FSR) applies to development on the site by virtue of Clause 32(3) of the LEP. The proposal has an FSR of 2.765:1 all of which is residential. The proposal therefore exceeds the maximum residential FSR standard but complies with the overall maximum FSR standard.

The applicant has submitted an objection under State Environmental Planning Policy No.1 – Development Standards in respect of the proposal’s departure from the 2.0:1 residential FSR standard. In the objection, the applicant submits that compliance with the standard is unreasonable and unnecessary in the circumstances of the case for the following reasons:

- The LEP 1998 does not include specific objectives for the Floor Space Ratio standard. However, the Maroubra Town Centre Development Control Plan (DCP) includes specific objectives for development design guidelines in the Maroubra Junction area. The relevant clauses pertaining to the proposal are discussed following.

4.2.1 Building Entry.
To create entrances which provide identifiable, desirable residential identity for the development.

The entrance to the building is clearly defined as a private domain. A secure door is at street level in the centre of the building, along Mason Street. Behind the door are a ramp and staircase that lead up to the elevated entrance to the building foyer. The entrance is clear and identifiable and gives the impression of privacy and security for the residents.

4.2.2 Composition and Modulation of external walls.

Well articulated and harmonious facades defining the public domain. Exterior of building reinforces character and continuity of streetscape.

The exterior of the building reinforces the desired character as outlined in the Maroubra Town Centre DCP for Block 4. Block 4 has proposed building envelopes accommodating 5 to 8 storey developments. The proposed development adheres to the ‘build to line’ assuring that the development will be in keeping with the building line identified for future development along Mason Street.

4.2.3 Active frontages.

Should encourage transparency, maximise casual surveillance, provide access directly to the street and maximise openings and minimise blank walls to the street.

The proposed development maximises casual surveillance with all units within the proposed development having a frontage to Mason Street. Balconies provide building openings from the ground floor to the top floor, while allowing for surveillance of Mason Street, the entrance to the building and the pedestrian precinct. Direct access to the street is provided from the ground floor foyer, which provides access to all units via both lift and stairs.

4.3.1 Accessibility

Ensure residents and visitors are able to access apartments and communal areas.

Disabled access is provided from Mason Street, via a ramp which extends from street level to the ground floor foyer. All floors of the building can be accessed via a lift which also services both floors of the basement car park.

4.4.1 Communal open space
Provide passive/active recreation space for residents, areas with soft landscaping and deep soil planting and long term combined communal space.

The rear of the site provides both soft and deep landscaping and a common courtyard accessible to all residents via both ramp and stairs from the ground floor lobby area. Deep root planting will be provided along the western boundary adjoining the neighbouring house. Soft planting in the form of planter boxes will also be provided in the front of the development.

4.4.4 Balconies

Balconies provide for outdoor living enjoyment and contribute to the scale/articulation of buildings.

The building design is articulated with the centre of the building being set forward of the remainder of the building. Balconies being stepped back away from the outside of the building further reduces the bulk of the building. Roof terraces at the rear of the building further articulate the design. Roof terraces and balconies are located on the corners of each floor reducing the appearance of bulk by further setting back the building.

4.5.2 Natural Ventilation

Ensure all habitable room have airflow through them.

Twenty-seven of the twenty-nine units have dual frontages allowing for natural cross ventilation. The north-south orientation of the units, with the primary living areas fronting Mason Street and bedrooms to the rear of the building, coupled with the open plan design of the units allows for air to flow through from the front to the rear of the units.

4.5.3 Visual Privacy

Provide reasonable levels of visual privacy internally and externally.

Visual privacy is afforded to the residents through the setback and screening of balconies from Mason Street. The privacy of residents along the rear façade of the building is ensured through the use of planter-boxes, small balconies, and roof terraces, protecting internal spaces from direct view from the street and adjoining developments.

4.5.11 Solar Access

Optimise solar access to habitable rooms minimising need for artificial lighting.
The primary living areas of all units have a northerly aspect, providing natural light to these areas. The above balconies (and awning on the top floor) provide adequate shade during summer months, preventing direct sunlight from heating the units, while allowing for adequate natural light in winter to minimise need for artificial lighting.

4.5.12 Energy Efficiency

To ensure that energy efficiency and energy generation are fundamental parts of the design process of any building; To eliminate/reduce the need for mechanical heating/cooling of the building; To maximise thermal performance of all buildings.

The thermal performance of the building has been maximised through its north-south orientation. The orientation of the building allows for natural ventilation and lighting of primary living areas. Appropriate building materials will be utilised to ensure that the energy efficiency of the building is maximised in terms of natural heating and cooling.

- The basis of FSR controls is to limit the development expectations in an area to maintain consistency and compatibility between neighbouring premises in a defined precinct. The site is located in an area which has a future desired character which promotes developments of similar bulk and scale as the proposed development. The proposal maintains the context of the already changing Maroubra Junction precinct. The development in the immediate vicinity of the proposed site is largely mixed-use in nature, with high density development encouraged, consistent with the Maroubra Town Centre DCP. Multi-level mixed-use buildings are common, with commercial premises at the ground level and the residential dwellings above. Therefore the proposal is consistent and compatible with the existing development in the area, and the desired future character of the area.

It is considered that the proposal is consistent with the objectives of the FSR standard by ensuring that the amenity of existing residential development in the locality is maintained, the future desired character is promoted and the proposal employs ESD principles within the development.

Compliance with the development standard would be unreasonable and unnecessary in this instance and would hinder the attainment of the objectives in Section 5 (a) (i) and (ii) of the Act in that enforcing the development standard in this instance would fail to result in the orderly and economic use and development of land given that it restricts development which would otherwise be satisfying the objectives of the standard.

It is considered that the additional floor space within the proposed building does not give rise to any adverse environmental effect in terms of privacy, shadowing, view loss and the like and is considered to satisfactorily
address the heads of consideration under section 79C of the Environmental Planning and Assessment Act 1979.

It is considered appropriate to support the breach to the Floor Space Ratio standard on the basis of the standard being unreasonable and unnecessary in this instance. The objectives behind the standard are fully met by the proposed development.

Assessment

The purpose of the floor space standards as stated in the LEP is:

*To establish reasonable upper limits for development in residential, business, industrial and special use zones through a limit on the amount of floor space that can be provided. This will help to reduce the potential for adverse amenity impact on nearby and adjoining development while still providing for reasonable levels of development and redevelopment.*

The proposed development is located on the periphery of the Maroubra Town Centre and is surrounded by residential development on all sides. Adjacent to the east of the site is an 8 storey tower containing predominantly residential uses and to all other sides, two storey residential development. Given the existing residential context, it is considered reasonable that the use of the entire building is for residential purposes.

The additional residential floor space above the LEP requirement equates to a ratio of 0.765:1. This area is ordinarily required to be allocated to commercial uses. The impact to the area as a result of the proposed residential uses on the lower levels instead of commercial uses is not considered to be any greater in terms of loss of amenity, privacy, exposure to noise, parking and garbage refuse.

The proposed development is lower in height, bulk, and scale than the nearby mixed-use development to the east. The proposal forms a transition in height between the eight storey building to the east and two storey buildings to the west.

The proposal is consistent with the design principles espoused in SEPP 65 and the provisions of the draft DCP for the Maroubra Town Centre. Importantly, the proposed building envelope is positioned in approximate alignment with the desired footprint specified in the draft DCP for Maroubra Town Centre. Further, the draft DCP allows for all levels in the building to be used for residential purposes if there is no prevailing demand for commercial (This matter is discussed in greater detail in section 9.3.1 below).

The proposed development is consistent with the objectives of the 3A zone in that it introduces appropriate floor space ratio controls, encourages and facilitates the use of public transport, maintains and improves the environmental and aesthetic qualities of the City of Randwick, increases the residential population which will contribute to the continued viability of the Maroubra Town Centre, and does not unreasonably impact on neighbouring and nearby development in terms of loss of amenity.
Having regard to the above, the SEPP 1 objection to the FSR standard is considered to be well founded.

9.3 Draft DCP for the Maroubra Town Centre

9.3.1 Development Controls

<table>
<thead>
<tr>
<th>Standard:</th>
<th>Required</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Height</td>
<td>Max. 5 storeys (18m)</td>
<td>6 storeys (20m)</td>
<td>No. Refer to Assessment below.</td>
</tr>
<tr>
<td>Minimum Floor to Ceiling Height</td>
<td>Ground floor-3.6m</td>
<td>2.8m</td>
<td>No. Refer to Assessment below.</td>
</tr>
<tr>
<td></td>
<td>First floor if commercial -3.3m</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Above first floor-2.7m</td>
<td>2.7m</td>
<td>Yes</td>
</tr>
<tr>
<td>Building Use</td>
<td>1 level of commercial (home office preferred) with residential above.</td>
<td>Residential.</td>
<td>Yes. Refer to Assessment below.</td>
</tr>
<tr>
<td>Building zone</td>
<td>Maximum 18m (max.15m wall to wall)</td>
<td>Maximum 17m at ground and 19m to 25m below ground (max. 15m wall to wall)</td>
<td>Yes/No. Refer to Assessment below.</td>
</tr>
<tr>
<td>Articulation zone</td>
<td>Front and back of building to be articulated to a minimum depth of 1m.</td>
<td>Complies.</td>
<td>Yes</td>
</tr>
<tr>
<td>Setbacks</td>
<td>Front setback:</td>
<td>5.3m – aligns with adjacent buildings.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Along Mason Street: ‘build to line’</td>
<td></td>
<td>Yes/No. Refer to Assessment below.</td>
</tr>
<tr>
<td></td>
<td>Side setback:</td>
<td>1.5m to western boundary. 0m to eastern boundary.</td>
<td>Yes/No. Refer to Assessment below.</td>
</tr>
<tr>
<td></td>
<td>Along Mason Street and Boyce Road: 1m in general, 3m from existing strata-titled buildings.</td>
<td>Minimum 8.7m to rear ground floor pergola.</td>
<td>Yes.</td>
</tr>
<tr>
<td></td>
<td>Rear setback:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minimum 6m</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Assessment:

As indicated in the above table, the proposed development complies with most of the standards applying to the development on the site under the draft DCP, with the exception of departures from the number of storeys, the carpark building zone, the minimum floor to ceiling height on the ground floor and the side setback to the adjacent property to the east.
Building Height

The draft DCP recommends a maximum height of five storeys while the proposal contains six storeys. The upper level of the proposal is set in from the main building below in various proportions on all sides. Coupled with design elements to reduce visual bulk, such as raised planters, setback blade walls and differentiation in colours and finishes, the setbacks give the building the visual appearance of a five storey building from Mason Street. It is considered that whilst the proposed building exceeds the height provision by one floor in part, the proposed height will not have the apparent bulk of a six storey building and is therefore acceptable. The bulk of the building at the rear on the upper level results in an unreasonable level of overshadowing to the rear properties and any future development designed in accordance with the envelope prescribed under the draft DCP. Accordingly the rear of the upper level needs to be set in further to provide reasonable amenity to the properties at the rear.

Minimum floor to ceiling heights

The draft DCP requires floor to ceiling heights on the ground floor of 3.6m. This height level is designed to ensure the ground floor can be used for commercial uses as well as residential uses. The proposed ground floor ceiling height is 2.8m and reflects the use of the floor for residential purposes. Floor to ceiling height is tied in with building use which is discussed below. The proposed ceiling to floor height is considered acceptable given the proposed residential use.

Building Use

The proposed building contains residential uses entirely. The draft DCP recommends “one level of commercial (home office uses preferred) with residential above (if there is no prevailing demand for commercial uses, then all levels in the building can be residential.)” The proposed development is located on the boundary of the Maroubra Town Centre DCP in a predominantly residential area. Land use on all sides of the proposal is residential. New developments located within the vicinity of the site suggest that there is a strong demand for residential development away from the Anzac Parade strip and a strong demand for commercial uses on Anzac Parade but not along side streets located away from the main junction at Maroubra Road further to the south. The subject site is located approximately 100m from Anzac Parade and is unlikely to generate significant demand for commercial uses. Mason Street is a narrow street that does not lend itself to commercial uses as there is difficulty with garbage disposal, service vehicles loading and unloading and very limited off street parking. The ground floor apartments could be used for home offices without the need to increase the ceiling floor height from the proposed 2.8m to the required 3.6m. The additional 0.8m in height required on the ground floor would increase the height of the building further which is undesirable. It is considered that the use of the site wholly for residential purposes is warranted but does not eliminate partial commercial uses in the future.
The carpark building zone varies from between 19m and 25m which exceeds the draft DCP control (of 18m) by 1m to 6m. The proposed carpark is required to comply with Australian Standards for aisle widths, ramp widths and grades, car space widths, number of carparking spaces, trafficable areas and the like. In order to provide compliance with these standards the proposed car park has to be built to the proportions and dimensions proposed at a minimum. The building zone measurements are aimed at ensuring adequate unexcavated space is available at the rear of the site as a deep soil zone. The deep zone allows for the growth of large trees which act as a visual, acoustic and aesthetic buffer between properties and provides a significant passive open space. The proposed development has a deep zone at the rear varying between 4m and 10m, the majority being 4m. It is considered that this area provides sufficient space for deep plantings. Given the proposed car park has been designed to comply with Australian Standards and that there is adequate area for deep soil planting, the proposed variation to the minimum building zone is warranted.

Setbacks

Under the draft DCP, a 3m side setback to existing strata titled buildings is required. There is no side setback proposed to the eastern boundary. The subject site is located adjacent to one strata title building which is an 8 storey mixed use development to the east, with the residential units setback 18m from Mason Street. The rear of the proposed building is 22m from Mason Street. As such, there is a 4m strip where the built form of both residential structures run astride each other. The proposed building is located between 4m and 6m from the residential units adjacent and 1.5m to 2.5m from the podium or base of that building. It is considered that the minor discrepancy in separation is reasonable given the considerable distance between units and the minimal area by which both structures face each other. The separation between the buildings provides reasonable access to ventilation and light.

The proposed development is considered to satisfactorily address all relevant standards of the DCP.

9.3.2 Design Guidelines

The proposed development is subject a variety of design guidelines under the draft Maroubra Town Centres DCP. Having regard to the design guidelines, the proposed development is consistent with all of the definitions, objectives and guidelines specified in the DCP.

9.4 Car parking and Traffic Issues

| Table 1: Number of car parking spaces |
ITEM 5.3

USE

Requirements (DCP- Parking)

Proposed Number and/or Floor Area

Required Provision

Proposed Provision

Residential

1.2 spaces per two bedroom unit

24 x two bedroom units (24 x 1.2 = 28.8 spaces)

28.8 (29) spaces

34 residential spaces (including 6 stacked)

1 spaces per 1 bedroom unit

5 x one bedroom units (5 x 1 = 5 spaces)

5(5) spaces

5 spaces

Visitors:

1 space per 4 dwellings

29 dwellings (29 / 4 = 7.25)

7 spaces

3 spaces (the over provision of residential can be redistributed to visitors)

Bicycles:

1 space per 3 units plus 1 visitor space per 10 units

Provision for bicycle storage proposed on the Basement Parking level

10 residential and 3 visitor bicycle space

Satisfactory.

Table 2: Dimensions of car parking spaces

<table>
<thead>
<tr>
<th>Item</th>
<th>Council Requirement</th>
<th>Proposal Provides</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout</td>
<td>5.5m x 2.5 m car spaces (3.0m width for end bays adjacent to walls) 6.0 - 7.0m aisles width (one way or two-way) Stacked parking of vehicles is not permitted.</td>
<td>5.5m x 2.5m generally (min 2.8m to end bays adjacent to walls) 6 stackers are 5.0m x 2.5m 6.0m Stacked parking of six vehicles only (spaces 19 to 24) is proposed within the level 2 car parking area.</td>
<td>Yes. No dimension requirements for stackers. Satisfactory. Car park layout satisfactorily complies with (AS) 2890.1 for car parking design. No, however, each pair of stacked parking spaces is to be allocated to one residential apartment only. This arrangement is considered acceptable.</td>
</tr>
</tbody>
</table>
The total car parking requirement for the proposed development under DCP - Parking is 42 spaces. As indicated in Table 1 above, the proposal provides a total of 42 spaces of which 6 spaces are to be provided in a stacked arrangement involving the use of single-vehicle car stackers (i.e. car bays 19 to 24 on carpark level 2). Each car stacker is to be attached to one apartment. This is considered an acceptable arrangement having regard to the demand for car parking generated by the proposal and the built-form objectives of Randwick LEP 1998 and the draft DCP for Maroubra Junction.

The DCP requires 7 visitors spaces for 29 residential units and the proposed development provides only 3 spaces on carpark level 1. There is an overprovision of five carparking spaces for the residential units. An additional four spaces can therefore be allocated from the residential spaces to visitors spaces to make up the shortfall and ensure compliance with the DCP.

Under the parking layout provisions of the DCP, tandem or stacked parking is not permitted, except for dwelling houses and dwellings in dual occupancy development. The proposed development provides six stacked parking spaces primarily due to constraints such as the site dimensions (which effectively restrict the area available for the carpark) and the restrictions imposed on the built form by the draft Maroubra Town Centre DCP. Without providing the six stacked spaces, it would be necessary to excavate another full level below ground for parking. The proposal was referred to Council’s engineering section who had no objection to the stackers subject to them being allocated to particular units. It is considered that the proposed stacked parking is warranted given the above circumstances.

Having regard to the above, the proposal is considered to be acceptable from a parking aspect.

**9.5 DCP 15 – Maroubra Junction Commercial Centre**

The proposed development is subject to the provisions of this DCP which is to be superseded in the near future with the impending implementation of the draft Maroubra Town Centre DCP.

<table>
<thead>
<tr>
<th>Standard</th>
<th>Required</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Consolidation</td>
<td>Minimum 800sq.m required to permit maximum FSR of 3:1</td>
<td>983 sq.m.</td>
<td>Yes.</td>
</tr>
<tr>
<td>Building Height Plane</td>
<td>45 degree pitch above 8m</td>
<td>6 Storey building slight pitch at upper level.</td>
<td>No. Refer to assessment below.</td>
</tr>
<tr>
<td>Control</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Height Restriction</td>
<td>24m</td>
<td>20m</td>
<td>Yes.</td>
</tr>
<tr>
<td>Car Parking</td>
<td>Provided at ground or in basement</td>
<td>Basement carpark</td>
<td>Yes.</td>
</tr>
</tbody>
</table>
The proposal consolidates two existing lots fronting Mason Street and the rear half of a lot which runs the length of the block from Mason Street to Boyce Rd. The total consolidated area is 983 sqm which complies with the prescribed minimum in the DCP of 800 sq.m.

The proposed development is setback at the upper level from Mason Street by 1m from the five levels below. This slight setback generates a pitch of approximately 20 degrees. The area of non-compliance is marginal and the proposal will not appear as a six storey development from Mason Street.

The proposed development is consistent with the provisions of DCP 15.

9.6 Landscaping and Communal Open Space

There are no landscaping requirements for commercially zoned areas. Landscaped areas and open space are however provided in generous proportions throughout the proposal. Landscaped planters are provided at the Mason Street frontage at the ground level and to the rear of all units on the ground, first, third and fifth levels. All units have a balcony fronting Mason Street and a small balcony facing the rear attached to a bedroom. Ground floor units have large rear courtyards and units adjacent to the sides have deeper yards extending to the rear boundary. The area of open space to each unit varies between a total of 18 sq.m and 42 sq.m. A communal open space approximately 60 sq.m in area is provided to the rear on the ground floor and has a bbq area. The open space at the rear on the ground floor is sited over a deep root zone for a width of 4m and soft landscaping as well as tree planting is proposed in this area. The development has been designed so that all units have north facing balconies located adjacent to the living/dining area providing good amenity to the units.

The proposed landscaping provides effective privacy screening to adjacent properties to the rear as well as aesthetic enhancement to both frontages which will contribute to the aesthetics and amenity of the development for future residents.

The proposed landscaping and open space areas provide sufficient area for passive recreation and greatly enhance the amenity of the units. The proposed landscaping scheme and open space areas are therefore supported.

9.7 Privacy

The proposed units are oriented on a north/south axis with openings, balconies, terraces and courtyards facing north towards Mason Street or south to the rear of the three properties fronting Boyce Street. The outlook to the north is of Mason Street and a row of two storey dwellings fronting Mason Street. The proposed units will not overlook the main open space or living areas to these units and therefore will not adversely impinge upon the residents amenity.

The balconies to the rear (or south facing side) of the proposal on the second and fourth levels are 1m x 2.5m with a total area of 2.5 sq.m. All of these balconies lead onto a bedroom and provide light and ventilation to the bedrooms in accordance with the provisions of the Building Code of Australia (BCA). Due to the extremely small size of these balconies and their location adjacent to bedrooms, the use of the balconies is likely to be restricted primarily to providing
fresh air and therefore the impact to the rear properties is considered to be limited. The separation between the proposed units and the existing buildings to the rear is over 12m and it is proposed to plant trees within this zone which will act as a natural buffer providing a visual and acoustic screen between the developments. The bedrooms to the rear (or south facing side) of the proposal on levels one and three have a rear window with a 1m high landscaped planter bed attached to the wall to ensure privacy to the rear dwellings is maintained. 1m high landscaped planters attached to the rear terraces of the middle units on the upper level provide visual protection between those units and the rear of the properties to the south.

The proposed terrace rail/wall which wraps around the units on the eastern and western sides of the building on the upper level are proposed to be 900mm high of which the lower 500mm is masonry and the upper 400mm is metal balustrading. It is considered that to improve privacy to adjacent dwellings on lower levels and safety to people using the open space, the proposed rail/wall is to be increased in height to a minimum 1.4m.

Cross viewing between the upper level unit (terrace) on the eastern side and the unit opposite on the building to the east is possible to a small area. A privacy screen would create undesirable overshadowing and landscaped planters would significantly diminish the trafficable area of open space without providing any great improvement in controlling overlooking. The proposed terrace faces the rear and front of the site as well as the side. It is considered that there is adequate separation between the units to afford reasonable privacy.

All open spaces and balconies within the development contain blade/fin walls between units which effectively maintains complete privacy between all units within the development.

It is considered that the proposed development contains a variety of measures to effectively control the impact of overlooking to adjacent properties.

9.8 Overshadowing

Shadow diagrams have been submitted showing a comparative study of the overshadowing impact to adjacent properties with three dimensional plans. Overshadowing is generally assessed as follows: 3 hours of direct sunlight is maintained to principle living areas and open spaces of adjacent properties between 9.00am and 3.00pm during the winter solstice. The shadow diagrams submitted show that the eight storey building to the east will receive adequate levels of sunlight during the middle of the day and the afternoon but will be entirely overshadowed by the proposal in the morning. The dwelling at 102 Boyce Road will receive sunlight for three hours between midday and 3.00pm. The rear yards of the two dwellings at 104 and 106 Mason Street would be heavily overshadowed during the morning, midday and most of the afternoon by the proposed development. Direct sunlight would be available to the yards of these properties after about 2.00pm and to nearly the entire yard area by 3.00pm. The rear wall of the dwellings at these properties would receive full sunlight at 3.00pm and over the upper half of the walls at midday.

It is likely that the three properties located directly to the south of the site will be developed in the future in accordance with the vision for the area presented in the draft DCP – Maroubra Town Centre. If this were the case, the ground level of a building sited at the desired position specified in the draft DCP would receive direct solar access at 3pm only. The open areas at ground level at the rear of any
proposed development at the rear of the subject site would be overshadowed until approximately 2pm when direct sunlight penetrates from the west. It is considered that the level of overshadowing caused by the proposal to existing and future development is not consistent with Council requirements and results in an unreasonable level of solar access to those properties. Accordingly, it is considered that the proposed development should be reduced in scale at the rear of the upper level by a scale which results in shadowing that is no greater than would be the case for a 5 storey building. This would result in the loss of bedrooms and bathrooms at the rear upper level units, reducing FSR and the number of two bedroom units.

9.9 Equitable Access

The proposal provides barrier free access throughout. An access ramp is provided at the Mason Street entrance and to the common open space area to the rear. All units are accessible via a lift from the ground floor lobby area and the basement parking areas. Six units within the proposed development can be adapted for the purpose of barrier free living. The proposed development provides satisfactory measures enabling unrestricted equitable access.

9.10 Energy efficiency.

NatHERS energy efficiency reports have been submitted for all units within the proposed development and each unit achieves the minimum requirement of a 3.5 star rating. All of the units run along a north south axis and have dual frontages with many apartments having split levels. These design elements ensure that all of the units receive a high degree of solar penetration and cross ventilation. The proposed development therefore complies with energy efficiency requirements and provides a high degree of comfort through design.

9.11 Views

The residential units in the adjacent eight storey building to the east enjoy extensive views to the north west, west and south west. The proposed building is sited approximately north west of the adjacent eight storey building and directly west of the north western most point of that building. The proposal therefore eliminates the north western view for all units on the lower four to five levels of the adjacent building. The units on the lower four to five levels in the north western corner of the adjacent development will lose the bulk of their view to the west. Whilst a considerable view loss to units in the adjacent eight storey development would occur as a result of the proposal, all of the units maintain views to other areas and most maintain their westerly view. Notwithstanding the view loss to the adjacent development, the proposal has been sited within close proximity of the front boundary and in accordance with the desired footprint specified in the draft DCP – Maroubra Town Centre.

It is considered that whilst the proposal detrimentally impacts upon existing views to the adjacent building to the east, significant views to other areas will remain for the units and therefore the proposal is warranted.
9.12 **Section 94 Contributions Plan**

The proposed development generates a Section 94 Contribution totalling $61,617.65, the breakdown is as follows:

<table>
<thead>
<tr>
<th>Contributions</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open Space Contributions</td>
<td>$42,431.47</td>
</tr>
<tr>
<td>Community Facilities</td>
<td>$18,761.19</td>
</tr>
<tr>
<td>Administration Charge</td>
<td>$425.00</td>
</tr>
</tbody>
</table>

*4.12 TOTAL* $61,617.65

9.13 **Resident Submissions**

Most of the issues/concerns raised in submissions have been previously addressed. Outstanding issues/concerns requiring further comment are identified and addressed below.

- *Inadequate car parking and Mason Street does not have the capacity for on street car parking or for delivery trucks servicing the units,*

  **Comment:**

  The proposed level of parking complies with Council requirements and therefore will not create demand for on street parking. The proposed carpark has a height of 3m which enables station wagons, utilities and vans to access the car park for deliveries. There is no requirement for a delivery area in DCP – Parking for developments under 50 units.

- *Mason Street too narrow to accommodate garbage trucks,*

  **Comment:**

  Council’s Assets and Infrastructure Services raised no objection to the waste management proposal for the site. Mason Street is able to accommodate garbage trucks and the method of removal of garbage from the site satisfies the Departments requirements. Council does not allow garbage collection from private property for insurance reasons.

- *Creates a dangerous environment for elderly residents through busy traffic, cluttered streets with no space for pedestrians, noise/air pollution from construction,*

  **Comment:**

  The proposed development has been designed in compliance with Council controls and provides adequate space at Mason Street for the safe passage of pedestrians and vehicular traffic. Noise and air pollution during the construction phase are to strictly comply with conditions of consent which restrict impact.

- *Inappropriate proposal for garbage removal,*
Comment:

The proposed internal garbage area sufficiently complies with Council requirements and the collection point is set back from Mason Street to ensure there is no impediment to traffic using Mason Street.

- *The entry should be off Boyce Road as Mason Street has been recently kerbed and guttered.*

Comment:

An entry off Boyce Road would require considerable excavation under existing properties requiring consent of the owners and is likely to be at great cost. It is unlikely that a vehicle entrance could be built to Boyce Road without destabilising or demolishing part of the buildings on Boyce Road. An access point within the deep soil zone specified in the draft DCP - Maroubra Town Centre is inconsistent with the principles of the DCP and in particular the planting of trees within the zone.

- *Impact to residents in the form of noise, dust and disruptions.*

Comment:

A site management plan is required as a condition of consent. The site management plan must be complied with at all times and describes methods of controlling noise, dust and disruptions during the construction process.

- *Will diminish surrounding property values,*

Comment:

The impact of the proposed development on surrounding property values is not a consideration of Council’s.

- *Increase in crime due to increased population density,*

Comment:

There is no evidence to suggest that a development of the size proposed will have any impact on crime. The proposed development will increase the level of surveillance to Mason Street and therefore is likely to have a positive impact on reducing crime in the immediate vicinity.

- *Increased density will increase impact on already struggling public transport, Overall the proposal increases population and therefore crime, loss of privacy, full buses, higher traffic on Anzac Road etc.*

Comment:
The proposed development is likely to result in a minor increase in patronage levels on the existing public transport in the area as well as the traffic volume on Anzac Parade. It is considered that the existing road and public transport networks can absorb the minor increases resulting from the proposed development without adversely affecting other motorists or public transport users.

- The storage spaces allotted to each unit do not comply with the regulations requiring 8 sq metres and 10 sq metres for 1 bedroom units and 2 bedroom units.

Comment:

Under the guidelines for the draft DCP - Maroubra Town Centre, 8 sq.m of storage space is required for a 1 bedroom apartment and 10 sq.m of storage space is required for 2 bedroom apartments. 50% of this is to be provided within the apartment itself. The proposal provides 2 sq.m of storage space under the staircase of the split level apartments and storage areas ranging between 3 sq.m and 9 sq.m are available within the basement carpark. Whilst the proposal does not strictly comply with the draft DCP, its is considered that there is a reasonable level of storage space available to meet the needs of residents.

- Creation of a slum/ghetto.

Comment:

There is no evidence available that suggests that the proposed development will result in a slum/ghetto situation. Slums/ghettos form due to a variety of circumstances, lack of income being a significant factor. The proposed development provides high quality apartments and therefore is likely to attract people from the medium to higher socio-economic bracket. Accordingly, it is unlikely that the proposal will result in the establishment of a slum/ghetto.

10. CONCLUSION

The proposed development satisfactorily addresses the relevant requirements of the Randwick LEP 1998, the draft DCP Maroubra Town Centre and the DCP – Parking. The assessment of the subject development – based on the merits of the application, the SEPP 1 to the non-compliance with the FSR for residential space application and the justification for variations to Council DCP’s - reveals that the application is worthy of approval subject to conditions and amendments to the rear of the upper level to reduce overshadowing.

The design of the development is considered to be consistent with the principles and provisions of SEPP 65 and the proposal is appropriate to the site.

RECOMMENDATION:

A. THAT Council assume the concurrence of the Director of Urban Affairs and Planning to vary the provisions of Clause 32 of the Randwick Local Environmental Plan 1998 (as amended) relating to the area of allowable residential
floor space under State Environmental Planning Policy No. 1 on the basis that the proposed use complies with the objectives of the zone, will not adversely impact upon the amenity of adjacent neighbourhood, and the site is located on the periphery of the Maroubra Town Centre in an area which is predominantly residential development, and that Planning New South Wales be advised accordingly.

B. THAT Council as the responsible authority grant its development consent as a Deferred Commencement under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. 827/2002 for demolition of the existing dwellings on No. 95 and 97 Mason Street and construction of a 6 storey multi unit housing development containing 29 dwellings and basement car parking over 2 levels for 42 vehicles including land subdivision of property No. 106 Boyce Road at 95-97 Mason Street and 106 Boyce Road, Maroubra and strata subdivision of the building subject to the following condition:

Deferred Commencement Conditions:

The consent is not to operate until the following material has been submitted to and approved by the Director Planning and Community Development:

(1) The rear of the upper most level is to be setback from the rear elevation to a distance that results in shadowing to the adjacent rear properties (with frontages to Boyce Road) that is no greater than would be the case for a 5 storey building (maximum height of 18m to underside of ceiling). Amended plans are to be submitted to Council’s Director of Planning and Community Development showing the alterations requested including shadow diagrams.

(2) Details of the proposed colours, materials and textures (ie. coloured elevations, a schedule and brochure/s or sample board) are to be submitted to and approved by Council’s Director of Planning & Community Development.

Subject to compliance with the deferred commencement condition, to the satisfaction of the Director Planning and Community Development, development consent is granted under Section 80 & 80A of the Environmental Planning and Assessment Act 1979 subject to the following conditions:

REFERRED PLANS

1. The development must be implemented substantially in accordance with the plans numbered A09b, A10b, A13c, A14b, A15c, A16b all dated February 2003 and received by Council on 26 March 2003, plans numbered A01a, A06a, A07a, A08a, all dated August 2002 and received by Council 30 August 2002, and plans numbered A03c, A04c, A05c, A11c all dated January 2003 and received by Council 20 January 2003, plan A12b dated December 2002, plan numbered A 02c dated February 2003 and received by Council 23 April 2003, and plan LA01 A dated 29.08.02 and received by Council 30 August 2002 and plans amended as required under the deferred commencement consent, the application form and on any supporting information received with the application, except as may be
amended by the following conditions and as may be shown in red on the attached plans.

SECURITY DEPOSIT CONDITIONS
The following conditions are applied to provide adequate security against damage to Council’s infrastructure:

1. The following damage deposit requirement is to be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to the roadway, footway, verge or any public place; or as security for completing any public work; and for remediying any defect on such public works, in accordance with section 80A(6) of the Environmental Planning and Assessment Act 1979:
   
a) $5000.00 - Security damage deposit

   The damage deposit may be provided by way of a cash or cheque with the Council and is refundable upon the applicant advising Council, in writing, of the completion of all building works and/or obtaining an occupation certificate, if required.

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

2. The following vehicular crossing deposit requirement is to be complied with prior to a construction certificate being issued for the development, as security for Council or a Council approved subcontractor to construct the vehicular crossing.

   a) $5000.00 - Vehicular crossing deposit

   The vehicular crossing deposit may be provided by way of cash or cheque with the Council and is refundable upon the completion of the Council vehicular crossing by Council or a Council approved subcontractor.

ENVIRONMENTAL AMENITY
The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

3. The proposed security rail/wall to the eastern and western most units on the upper level are to be raised to a height of a minimum of 1.4m of which at least the upper half is to be metal ballustrading.

4. A total of seven (7) car parking spaces within the proposed carpark are to be allocated for visitors.

5. Public access to the visitor’s carparking spaces is to be maintained at all times and an intercom system is to be provided adjacent to the vehicular entrance to the carparking area, together with appropriate signage providing instructions for use.
6. The proposed car stackers (vehicle car parking spaces 19 to 24) shall be individually allocated to units 19 to 24.

7. All plumbing and drainage pipes, other than rain water heads, gutters and downpipes, must be concealed within the building.

8. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.

9. The reflectivity index of glass used in the external façade of the development must not exceed 20 percent.

10. Internal or external clothes drying facilities are to be provided in accordance with the provisions of the Building Code of Australia.

   Should external clothes drying facilities be provided, the facilities must be adequately screened by vegetation and details are to be incorporated into the landscaping plans, to the satisfaction of the certifying authority.

10. The provisions of Council's tree preservation order are strictly to be observed and it is a requirement that the applicant or their representative obtain any necessary consent required under the tree preservation order.

   Should compliance require amendment to the plan an amended development application is required to be submitted for consideration and approval prior to work commencing.

11. The finished ground levels external to the building are to be consistent with the development consent and are not to be raised (other than for the provision of paving or the like on the ground) without the written consent of Council.

12. Where access is required to adjoining premises for construction purposes, the written consent of the owner/s of the subject adjoining premises must be provided to the satisfaction of the Principal Certifying Authority, prior to carrying out any construction works from or upon the adjoining premises.

13. Lighting to the premises shall be designed so as not to cause a nuisance to nearby residents or motorists and to ensure that light overspill does not affect the amenity of the area.

14. The development must be designed and constructed to achieve a minimum energy efficiency NatHERS rating of 3.5 stars or equivalent and a NatHERS certificate or equivalent, prepared by a suitably qualified person, is to be submitted to the certifying authority with the construction certificate application.

   The design of the building must be consistent with the development consent and any proposed variations to the building to achieve the energy efficiency rating may necessitate a new or amendment to the development consent prior to the issuing of a construction certificate.
15. Upon completion of the development and prior to the issuing of the strata subdivision, documentary evidence is to be submitted to the Council by the Principal Certifying Authority (or other suitably qualified person on behalf of the owner of the premises, to the satisfaction of Council) which confirms that the development has been carried out in accordance with the relevant development consent conditions.


Following application, a “Notice of Requirements” will be provided, detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Water Servicing Co-ordinator, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development or release of the linen plan, as applicable.

17. The consolidation of the separate lots into a single lot must take place, prior to the use or the occupation of the development. Details of the consolidation of lots are to be provided to Council prior to occupation of the development.

18. Suitable easements for services (in particular the existing sewer line) and internal stormwater lines shall be created as required.

The following condition/s are applied to satisfy the increased demand for public amenities and public services:

19. In accordance with Council’s Section 94 Contributions Plan effective from 2 September 1999, the following monetary contribution is to be paid to Council.

   a) for the provision or improvement of open space $42,431.47
   b) for the provision or improvement of community facilities $18,761.18
   c) Administration fee $425.00

The contribution must be paid in cash or by bank cheque prior to a construction certificate being issued for the proposed development, together with payment of the required Section 94 Administration Fee of $425.00. Council’s Section 94 Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick.

TRAFFIC CONDITIONS/CIVIL WORKS CONDITIONS
The following conditions are applied to provide adequate provisions for access, transport and infrastructure:
20. The applicant must meet the full cost for Council or a Council approved contractor to:
   a. Construct a heavy-duty concrete vehicular crossing opposite the vehicular entrance to the site.
   b. Remove the redundant concrete vehicular crossings and to reinstate the area with concrete footpath, turf and faux brick parking spaces to Council's specification.
   c. Reconstruct a concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council’s specification.

21. 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.

22. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.

23. All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level or splayed 1.5 metre by 1.5 metre so that a driver of a stopped vehicle 2 metres behind the street boundary line can observe pedestrians up to 2 metres from the crossings. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate showing compliance with this condition.

24. The driveway opening at the Mason St frontage must be a minimum 5.50m wide and located at least 1.5 metres clear of the side property.

25. Prior to the issuing of a construction certificate the applicant shall submit to the Certifying Authority for approval, and have approved, longitudinal sections along the extremities and the centreline of each internal driveway/access ramp at a scale of 1:20. The sections through the driveway shall indicate compliance with Council’s issued alignment level and the required high point of at least RL 26.08 (AHD). Vehicular access driveways are to be designed in general accordance with Council’s Development Control Plan – Parking and the relevant sections of AS 2890.1-1993. (Note changes in grade in excess of 12.5 percent must be transitioned over a minimum 2.00m length)

26. A work zone is to be provided, (at full cost to the applicant), at a suitable location along the site frontage. The applicant shall contact Council’s Traffic Engineer to determine the preferred location for the work zone prior to lodgment of a construction certificate application. The work zone shall have a minimum length
of 12 metres, and all fees must be paid to Council at least four (4) weeks prior to the commencement of building works.

ALIGNMENT LEVEL CONDITIONS
The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

27. The Council’s Department of Asset & Infrastructure Services has inspected the above site and have determined that the design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, must be as follows:

Mason St Frontage - match the back of the existing Council footpath levels along the full site frontage.

The design alignment level at the property boundary must be strictly adhered to.

28. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

29. The above alignment levels and the site inspection by Council’s Department of Asset & Infrastructure Services have been issued at a prescribed fee of $534.00 calculated at $17.60 (inclusive of GST) per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

SERVICE AUTHORITY CONDITIONS
The following conditions are applied to provide adequate consideration for service authority assets:

30. 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.

31. The applicant must meet the full cost for Telstra, Energy Australia, Sydney Water or Natural Gas Company to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

32. Documentary evidence from the relevant public utility authorities confirming that their requirements have been satisfied, must be submitted to the certifying authority prior to a construction certificate being issued for the development.

33. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications. The applicant must liaise with Sydney Electricity prior to
lodging the construction certificate whether or not an electricity substation is required for the development.

DRAINAGE CONDITIONS
The following conditions are applied to provide adequate provisions for drainage and associated infrastructure:

34. All habitable and storage areas shall be a minimum of 300 mm above the 1 in 100 year flood level (i.e. minimum RL of 26.38 (AHD))

35. The internal driveway shall be designed with a high point to at least the 1 in 100 year flood level (i.e. minimum RL 26.08 (AHD)) with a floodgate providing a minimum 300mm freeboard. There shall be no windows, vents or other openings to the basement carpark below RL 26.23 (AHD).

36. The floodgates shall be designed by a suitably qualified structural engineer and shall be designed in accordance with the following requirements:

   a. The floodgates shall automatically rise when water levels get to 300mm below the high point in the driveway.
   b. Provision shall be made for manual raising and lowering of the floodgates.
   c. Warning alarms and lights shall be provided to indicated when the floodgates are being raised/lowered.
   d. A back up pumping system (with a suitably sized sump) shall be provided in the basement carpark.
   e. The floodgates shall be constructed with a full back up system for both power supply and raising mechanism.

   Full details of the proposed floodgates, including a maintenance/service schedule, shall be submitted to the certifying authority for approval prior to the issuing of a construction certificate. A copy shall be forwarded to Council should it not be the Certifying Authority.

37. A positive covenant shall be created on the title of the subject property detailing the maintenance requirements for the floodgates prior to the issuing of an occupation certificate.

38. The new internal driveway shall, where practicable, be suspended on piers with the area beneath left open to allow stormwater to infiltrate into the ground. In areas where it is not possible to suspend the driveway, the driveway shall be constructed from permeable paving to allow stormwater to infiltrate into the ground.

   The plans submitted for the construction certificate shall demonstrate compliance with the above requirements.

39. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issue, if the Council is not the
certifying authority. The drawings and details shall include the following information:

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

b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system. This may involve either connection to the Council's street gutter, or into a Council stormwater pit. Note: All proposals should indicate the location of the closest Council stormwater pit and line regardless of the point of discharge. This information can be obtained by a visual inspection of the area and perusing Council's drainage plans.

c) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (ie. above the 1 in 20 year storm) to the proposed drainage system.

d) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:

i.  Roof areas
ii. Paved areas
iii. Grassed areas
iv. Garden areas

e) Where buildings abut higher buildings and their roofs are "flashed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.

f) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.

g) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.

h) All stormwater run-off naturally draining to the site must be collected and discharged through this property's stormwater system. Such drainage must, if necessary, be constructed prior to the commencement of building work.
40. On-site detention must be provided to ensure that the maximum discharge from the above site is not to exceed that which would occur during a 1 in 5 year storm of 1-hour duration for the existing site conditions. All other stormwater run-off from the above site for all storms up to the 1 in 20 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by the Director of Assets and Infrastructure Services. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

*For small areas up to 0.5 hectares, determination of the required cumulative storage must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.*

Where possible the detention tank must have an open base to infiltrate stormwater to the groundwater. Note that the ground water and any rock stratum has to be a minimum of 2.0 metres below the base of the tank.

41. All site stormwater leaving the site must be discharged by gravity to the kerb and gutter or drainage system at the front of the property or an infiltration system subject to Council’s requirements and a satisfactory Geotechnical Engineers report will be permitted. Note: submitted Geotechnical Engineers report will require infiltration rate to be stated.

42. Any proposed infiltration trench is to be fully protected until all construction works have been completed.

43. The applicant must provide for a detention volume of up to the 1 in 100 year, plus an additional 50% of storage volume should no overland escape route be provided for storms greater than the design storm.

44. A "restriction as to user and positive covenant" shall be placed on the title of the subject property prior to the issuing of an occupation certificate. Such restriction and positive covenant shall relate to the onsite stormwater detention system and shall not be released, varied or modified without the consent of the Council.

Notes:

a. The "restriction as to user and positive covenant" are to be to the satisfaction of Council. A copy of Council’s standard wording/layout for the restriction and positive covenant may be obtained from Council’s Asset and Infrastructure Services Department.

b. The linen plans shall indicate the location and dimensions of the detention/infiltration areas.

*This condition is to ensure that no works which could affect the design function of the detention system are undertaken without the prior consent (in writing) from Council.*

45. The detention area must be regularly cleaned and maintained to ensure it functions as required by the design.
46. The stormwater detention area must be suitably signposted where required, warning people of the maximum flood level.

47. The floor level of all habitable and storage areas adjacent to the detention area must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be constructed.

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

48. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.

49. Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump system must also be designed and installed strictly in accordance with "Section 8.4 PUMP SYSTEMS" as stipulated in Randwick City Council's Private Stormwater Code.

50. A work-as-executed plan prepared and signed by the hydraulic engineer or a registered surveyor, and approved by an accredited certifier, must be submitted to Council's Director of Asset and Infrastructure Services prior to the issuing of an occupation certificate, detailing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. The outlet pipe from the detention basin to its connection with Council's drainage system, must be indicated on this plan in conjunction with the following information:

a) location
b) pipe diameter
c) gradient
d) pipe material ie PVC or EW etc
e) orifice size (if applicable)

51. A sediment/silt arrester pit must be provided:

a. within the site at or near the street boundary prior to the site stormwater discharging by gravity to the kerb/street drainage system; and
b. prior to stormwater discharging into any absorption/infiltration system.

The sediment/silt arrester pit shall be constructed with:

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
• The pit must be constructed from cast in-situ concrete, precast concrete or double brick.

• The grate is to be a galvanised heavy-duty grate that has a provision for a child proof fastening system.

• A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.

• A galvanised heavy-duty screen (Lysaght RH3030 Maximesh or similar) located over the outlet pipe. (Similar to a Mascot GRC stormwater discharge control pit, product code DS3SDC).

• A child proof and corrosion resistant fastening system for the access grate (e.g. similar to a Weldlock spring loaded jay-bolt).

• The inlet pipeline located on the side of the pit so that the stormwater will discharge across the face of the screen.

• A sign adjacent to this pit stating that:

   “This sediment/silt arrester pit shall be regularly inspected and cleaned.”

Note: Sketch details of a standard sediment/silt arrester pit can be obtained from Council’s Drainage Engineer.

52. A ‘V’ drain is to be constructed along the perimeter of the property, where required, to direct all stormwater to the detention area.

53. Any Absorption Trenches/Pits must be designed in accordance with "Section 8.5 ABSORPTION TRENCHES" as stipulated in Randwick City Council’s Private Stormwater Code.

54. Two covered car washing bays shall be provided for this development.

   a) The car washing bays must be drained to sewer to the requirements of Sydney Water and proof of compliance is to be submitted to the certifying authority, prior to a construction certificate being issued for the proposed development.

   b) The car washing bays must be located outside any required/approved stormwater detention system and must be suitably signposted.

   c) The car washing bays must be constructed with a minimum 20mm bund around the perimeter of the car washing bay/s (or equivalent)

A water tap shall be located adjacent to the car washing bays.
55. All drainage details for the site shall be prepared by a suitably qualified hydraulic consultant who shall, at the completion of the works, certify that the drainage works have been constructed in accordance with the approved drainage plans.

56. Should groundwater be present within 2 metres of the base of the basement excavation, the basement carpark is to be suitably tanked and waterproofed. A Structural Engineer/Geotechnical Engineer shall certify the tanking & waterproofing has been carried out to an acceptable standard and a copy of the certification is to be forwarded to Council.

Should the basement be tanked, adequate provision is to be made for the ground water to drain around the basement carpark (to ensure that the basement will not dam or slow the movement of the ground water through the development site).

57. Any seepage water must be drained directly into an absorption pit within the site. Seepage water must not be drained from the site.

**WASTE MANAGEMENT CONDITIONS**

The following conditions are applied to provide adequate provisions for waste management:

58. The garbage room areas will have to be designed so as to be able to contain a total of 29 x 240 litre bins (15 garbage bins & 14 recycle bins) whilst providing satisfactory access to these bins. Details showing compliance with this requirement are to be shown on the plans submitted to the certifying authority for the construction certificate.

59. The garbage storage areas are to be provided with a tap and hose and the floor is to be graded and drained to an approved floor waste to the requirements of the Sydney Water Corporation.

60. Prior to the credited certifier issuing an occupation certificate for the proposed development the applicant is to contact Council’s Manager of Waste in regards to meeting Council’s requirements for waste services to the residential flat building.

**SUBDIVISION CONDITIONS of 102 Boyce Rd**

The following conditions are applied to satisfy the provisions of Council’s environmental plans, policies and codes for subdivision works:

61. The applicant shall create suitable right of carriageway, easements for services and internal stormwater lines, as required. The applicant shall be advised that the minimum easement width for any internal stormwater line is 0.9 metres.

62. Prior to release of the Plan of Subdivision for 102 Boyce Rd the applicant is to dedicate to Council a 4.57m width of land for road widening purposes along the Mason Street frontage of 102 Boyce Rd. The applicant is also to remove all structures from the dedicated width of land.

63. Prior to release of the Plan of Subdivision for 102 Boyce Rd the applicant is to submit to Council the amount of $2,789.00 calculated at $366.00 per lineal metre
of site frontage. The contribution will go towards the cost for Council to construct kerb and gutter with associated works along the Mason St frontage of the site.

64. Prior to release of the Plan of Subdivision for 102 Boyce Rd the applicant is to have approved by Council a Development Application for an off-street car space for the lot fronting Boyce Rd.

65. Prior to release of the Plan of Subdivision for 102 Boyce Rd the applicant is to have constructed the Council approved an off-street car space for the lot fronting Boyce Rd.

66. Prior to release of the Plan of Subdivision for 102 Boyce Rd the applicant is to have met the cost for Council or a Council approved sub-contractor to construct a vehicular crossing servicing the constructed off-street car space for the lot fronting Boyce Rd.

67. The applicant shall provide Council with a survey plan of the property prior to receiving subdivision approval for 102 Boyce Rd.

LANDSCAPE CONDITIONS
The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

68. The landscaped areas shown on the plan number LA01, issue A, dated 29.08.02 shall be the subject of detailed landscape drawings and specifications, which are to be submitted to, and approved by, the certifying authority or, prior to the issue of a construction certificate. The landscape drawings and specifications are to be prepared by a qualified Landscape Architect who is eligible for membership with the Australian Institute of Landscape Architects (AILA). The documentation is to include:

a. A site plan at an appropriate scale showing existing site boundaries, existing trees within the property (clearly identified as being retained or removed), existing street trees (clearly identified as being retained or removed), features on adjoining sites within 6 metres of the common property boundary (buildings, trees, other structures etc), council’s footway, existing and proposed ground levels shown as spot heights and/or contours over the site, at site boundaries, and at the base of the tree/ to be retained, proposed building envelope, proposed areas of pavement, and proposed landscaped areas.

The plan shall clearly show the position, canopy spread (location of dripline), trunk diameter, height and names of all existing trees upon the site and adjoining sites within 6 metres of the common property boundary which are likely to be affected by the development.

b. A planting plan at a scale of 1:100 or 1:200 indicating the location of all proposed planting and existing trees to be retained. All plants are to be drawn at their mature size with a dense planting of shrubs, accent plants and ground covers within all garden beds so that a continuous planted
cover is achieved. Plant spacings are to be clearly indicated for all accent and groundcovers.

c. A planting schedule listing all plants by botanic & common names, plant numbers, plant spacings for groundcovers and accent planting, pot sizes, the estimated size of the plant at maturity (height & spread) and proposed staking methods when applicable.

d. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in sufficient detail to fully describe the proposed landscape works.

e. Position of existing and proposed site services including water, gas, electricity, sewer, stormwater, etc.

f. Sectional elevations through the site showing the existing and proposed groundlines, building elevations, and mature height of proposed planting.

g. All planter boxes and garden beds constructed on slab must have a minimum soil depth of 600mm and all lawn areas must have a minimum soil depth of 300mm. Planter box details shall be submitted with the detailed landscape plans.

h. The plan shall respect the prevailing coastal influences and the coast's special design considerations and requirements, and shall be designed accordingly. Generally, species selection shall be restricted to local indigenous coastal species.

i. Location of easements within the site and upon adjacent sites (if any).

69. The landscaping shall be installed in accordance with the approved documentation prior to the issue of a final occupation certificate and shall be maintained in accordance with those plans.

Documentary evidence is to be obtained from a suitably qualified Landscape Architect and submitted to the principal certifying authority (PCA) (and the Council, if the Council is not the PCA) prior to the issuing of a final occupation certificate which confirms that the landscaping works have been completed in accordance with the approved landscaping plans and relevant conditions of development consent, to the satisfaction of the PCA.

70. To ensure satisfactory maintenance of the landscaped areas, an automatic irrigation system shall be installed throughout all the landscaped areas. Such system shall provide full coverage to all the landscaped areas with no overspray onto driveways and pathways.

Details of the automatic irrigation system shall be shown on the detailed landscape plans and specifications. The system shall comply with all Sydney Water requirements, and relevant Australian Standards.
71. The naturestrip upon Council's footway 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. Such works shall be installed prior to the issue of a final Occupation Certificate.

72. The naturestrip upon Council's footway shall be maintained by the applicant in accordance with Council guidelines. Such maintenance shall include, but not be limited to, watering, mowing, fertilising, and the removal of weeds.

73. Any substation required shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications.

74. All detention tanks and stormwater infiltration systems located within the landscaped areas shall have a minimum soil cover of 600mm to ensure sufficient soil depth to permit the establishment of landscaping on top of these services as stipulated by these conditions of development consent.

All stormwater documentation submitted for the construction certificate application shall show the top of the detention tanks and stormwater infiltration devices being 600mm below the finished ground level of the landscaped areas.

TREE MANAGEMENT CONDITIONS

75. The applicant shall submit a total payment of $4,880.00 to Council,

a. Being the cost for Council to remove the two (2) existing Arecastrum romanzoffianum (Cocos Palm) and one (1) Callistemon species (Bottlebrush) street trees ($860.00), and

b. Being the cost for Council to supply and install 2 x 45 litre street trees at the completion of all works ($290.00), and

c. To compensate Council for the loss of amenity caused by the removal of the street trees ($3,730.00).

The contribution shall be paid into Account Number 43459939 Activity Code R36 at the Cashier on the Ground Floor of the Administrative Centre prior to an occupation certificate being issued for the development.

The applicant shall present the receipt at the Asset and Infrastructure Services counter on the First Floor to organise for the works to be undertaken.

76. Approval is granted for the removal of the following trees subject to the planting of 3 x 45 litre broad canopied replacement trees (not palms) within the front yard of the site and 3 x 75 litre broad canopied replacement trees (not palms) within the rear yard of the site. The species selected shall be those that will attain a minimum height of 6 metres at maturity.

102 Boyce Road
a. One (1) *Jacaranda mimosifolia* (Jacaranda) located within the rear yard, close to the eastern property boundary.

b. One (1) *Nerium oleander* (Oleander) located within the rear yard, close to the western property boundary.

c. One (1) *Lagerstroemia indica* (Crepe Myrtle) located within the rear yard, close to the western property boundary.

95 Mason Street
d. One (1) Dead Tree located within the front yard, close to the eastern property boundary.

e. Two (2) *Schefflera arboricola* (Umbrella Trees) located within the front yard, close to the western property boundary.

f. Two (2) *Cupressus species* (Cypress Pines) located within the front yard.

g. One (1) *Grevillea robusta* (Silky Oak) located within the rear yard, close to the rear property boundary.

h. One (1) *Ficus species* (Fig Tree) located within the rear yard, close to the rear property boundary.

97 Mason Street
i. Two (2) *Arecastrum romanzoffianum* (Cocos Palms) located within the rear yard, close to the eastern property boundary.

The applicant shall pay for all costs associated with the transplanting of the one (1) *Howea forsteriana* (Kentia Palm) located within the rear yard of 102 Boyce Road to a more suitable location within the site. The following additional information shall be submitted prior to the issuing of the Construction Certificate.

a. A detailed report shall be submitted by a qualified person detailing the proposed method and scheduling of the transplanting works.

b. A maintenance schedule detailing the aftercare that is to be undertaken once the tree is relocated.

Tree Protection Measures

78. In order to ensure the retention of the three (3) *Arecastrum romanzoffianum* (Cocos Palms) located within the rear yard of 95 Mason Street, close to the south eastern corner in good health, the following measures are to be undertaken:

a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show the retention of the existing tree specimens with the position of the tree trunks and full diameter of the tree canopies clearly shown on all drawings.

b. Detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show no alteration in the existing soil levels or the location of any structures, basement carparks, services, footings, paving, detention tanks, stormwater infiltration systems, pipes, cutting or battering of the existing soil profile, or any excavations within a 4 metres from the southern property boundary.
c. The trees are to be physically protected by the installation of protective fencing around the trees using 1.8 metre high steel mesh/chainwire fencing. This fencing shall be located to a minimum radius of 1.5 metres from the outside edge of the tree trunks.

This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed.

d. Within this zone there is to be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of in the area, no stockpiling of soil or rubble, or any works listed in Point b.

Any works required within this zone (only as approved on the construction certificate) shall be under the direction of, and to the satisfaction of, a suitably qualified Arborist.

e. The installation of woodchip mulch to a depth of 75mm within the fenced off protection area as described in Point c.

f. Watering of the tree (within the fenced off area) three times a week for the duration of the construction period.

g. The erection of signage on the fence with the following words clearly displayed: “TREE PROTECTION ZONE”, "DO NOT ENTER".

79. A refundable deposit in the form of cash or cheque, or bank guarantee for the amount of $29,000.00 shall be lodged with Council prior to a construction certificate being issued for the proposed development to ensure the implementation and maintenance of the landscape works in accordance with the approved landscape documentation.

a. The refundable deposit will be released twelve (12) months after the issue of a final occupation certificate by the principle certifying authority providing the landscape works have been successfully implemented and maintained in accordance with the approved landscape documentation. Throughout the maintenance/bond period, the applicant shall be responsible for all routine maintenance such as grass cutting, weeding, watering, fertilising, spraying, staking and replacement of all failed plant stock. There must be no alteration to the original design, including substitution of trees and shrubs, without the prior approval of the Principal Certifying Authority.

b. Any contravention of Council's landscape conditions at any time during the construction period or prior to the expiration of a period of twelve (12) months from the date a final occupation certificate is issued will result in the Council claiming all or part of the lodged security.

Advisory Matters

80. In order to organise for an inspection for the release of the security deposit, the
applicant shall contact the Principal Certifying Authority for the development to liaise with Council’s Asset & Infrastructure Department to arrange for an inspection of the landscaping to be carried out. Should the landscaping be found to be unsatisfactory, thus necessitating further inspections, the applicant is advised that each additional inspection will be charged at $55.00 (incl.GST) and that this amount shall be paid into Account Number 41901939, Code RGJ at the Cashier on the Ground Floor of the Administrative Centre prior to any further inspection being carried out.

The applicant shall present the receipt at the Asset and Infrastructure Services counter on the First Floor to organise for a further inspection to be undertaken.

Advisory Conditions

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

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

82. The proposed use of the premises and the operation of 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 use of the premises and the operation of any plant or equipment on the site shall not give rise to an $L\_{10}$ sound pressure level which is $5\text{dB}(A)$ greater than the $A$-weighted $L\_{90}$ background sound pressure level, measured at any point on a residential boundary or within any residential dwelling.

The following conditions are applied to ensure that adequate provisions are made for the management of waste from the development:

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

A Waste Management Plan is to be submitted to Council and approved by Council’s Manager of Waste Services, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979, prior to a construction certificate being issued for the proposed development.

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

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:
84. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

85. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the requirements of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

- has been informed in writing of the licensee’s name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the Home Building Act 1989, or

Where the work to be done by any other person (i.e. an owner builder), excavation or building work must not be carried out unless the Principal Certifying Authority:

- has been informed of the person’s name and owner-builder permit number, or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed $3,000.

Details of the builder and compliance with the provisions of the Home Building Act 1989 are to be submitted to Council prior to the commencement of works, on the notice of appointment of the PCA / Intention to commence building work.

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

86. A report shall be prepared by a professional engineer and submitted to the certifying authority prior to the issuing of a construction certificate, detailing the proposed methods of excavation, shoring or pile construction, including details of vibration emissions and detailing any possible damage which may occur to adjoining or nearby premises that may be caused by the proposed building, excavation and shoring works.

Any practices or procedures specified in the engineer’s report in relation to the avoidance or minimisation of structural damage to nearby premises, are to be fully complied with and incorporated into the plans and specifications for the construction certificate.

87. A dilapidation report prepared by a professional engineer or suitably qualified and experienced building surveyor shall be submitted to the certifying authority prior to the commencement of demolition, excavation or building works detailing the current condition and status of all buildings, including ancillary structures (i.e.
including dwellings, residential flat buildings, commercial/industrial building, garages, carports, veranda's, fences, retaining walls, swimming pools and driveways etc.) located upon all of the premises adjoining the subject site.

The report is to be supported with photographic evidence of the status of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the abovestated premises, **prior to the commencement of any works.**

The following conditions are applied to ensure that the development satisfies the terms of Council's approval and relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

88. A sign must be erected on the site in a prominent, visible position, prior to commencing any demolition, excavation or building works, stating that 'unauthorised entry to the site is prohibited' and showing the name of the person in charge of the work site and a telephone number at which the person may be contacted outside working hours, in accordance with clause 78H of the Environmental Planning and Assessment Regulation 1994.

In the case of residential building work, the sign is also required to detail the licence number of the building contractor or the permit number of the owner-builder, in accordance with the *Home Building Act, 1989 and Regulations.*

89. All demolition work is to be carried out in accordance with the provisions of AS2601-1991. The Demolition of Structures, as in Force at 1 July, 1993 and details of compliance are to be prepared by a suitably qualified person and be submitted to the principal certifying authority, **prior to the commencement of any demolition works.**

90. Prior to the commencement of any building works, a **construction certificate** must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

91. Prior to the commencement of any building work, a **principal certifying authority** must be appointed and Council is to be notified accordingly and, at least 2 days notice of the intention to commence building work must be given to Council, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

92 A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be available to the Council officers upon request.

93 The building works are to be inspected by the principal certifying authority (or other suitably qualified person on behalf of the applicant) to monitor compliance with Council’s approval and the relevant standards of construction.
Documentary evidence of compliance with Council’s approval and relevant building inspections, is to be maintained by the principal certifying authority.

Upon inspection of each stage of construction, the principal certifying authority (or other suitably qualified person on behalf of the applicant) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council’s approval:

- Sediment control measures.
- Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
- Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

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

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

Retaining walls and shoring are to be designed and installed in accordance with the relevant requirements of the Building Code of Australia and Australian Standards and details of any proposed retaining walls are to be submitted to the Principal Certifying Authority for consideration prior to installation.

An Occupation Certificate must be obtained from the principal certifying authority prior to any occupation of the building work encompassed in this development consent in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

In addition to the matters contained in the Environmental Planning and Assessment Regulation 2000, the following matters are to be completed in accordance with the terms and conditions of this development consent, prior to the occupation of the building:

- car parking and vehicular access
- landscaping
- stormwater drainage
- external finishes and materials

A coloured works-as-executed fire services plan is to be submitted to the Council prior to occupation of the development, detailing the location of the essential fire safety measures installed within the building premises.

A Registered Surveyor’s check survey certificate or compliance certificate is to be forwarded to the principal certifying authority (and a copy is to be forwarded to the
Council, if the Council is not the principal certifying authority), detailing compliance with Council’s approval at the following stage/s of construction:

(a) Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being construction at the approved levels.

(b) On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying the building has been constructed at the approved levels.

Building and demolition works must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive, between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and public holidays, except with the specific written authorisation of Council’s Manager of Environmental Health and Building Services.

Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions at all times.

Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written consent of the Council, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from an approval under Council’s Local Approvals Policy.

Any building/demolition works involving asbestos cement are to be carried out in accordance with the Work Cover New South Wales “Guidelines for Practices Involving Asbestos Cement in Buildings”.

A Construction Site Management Plan is to be submitted to and approved by the principal certifying authority prior to the commencement of demolition, excavation or building works. The site management plan must include the following measures, as applicable to the type of development:

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

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain adequate levels of public health and safety. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

106 During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing.

A soil and water management plan (SWMP) must be submitted to and approved by the principal certifying authority and implemented prior to the commencement of any site works or activities.

The soil and water management plan must contain a site plan, detailing:

• the slope of the land
• site access points and access control measures
• location and type of all sediment control measures
• location of existing vegetation, to be retained
• material stockpile or storage areas and methods of sediment control
• location of existing and proposed drainage systems
• proposed disposal of site water
• location of building operations and equipment
• proposed re-vegetation details

All soil and water management measures must be maintained at all times throughout demolition, excavation, building and site works and a copy of the soil and water management plan is to be kept on-site and be made available to Council officers upon request.

107 Stockpiles of soil, sand, aggregate or other materials must not be located on any drainage line, natural watercourse, footpath, roadway or any public place and the stockpiles must be protected with adequate sediment control measures.

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.
A warning sign for soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council’s Customer Service Centre for a nominal fee.

If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or the building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected sufficiently to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises.

The public place adjacent to the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place and any such hoarding, fence or awning is to be removed upon completion of the work.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

If it is proposed to locate any hoardings, site fencing or amenities upon a footpath or public place, the written consent from Council’s Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council’s adopted fees and charges.

A temporary timber crossing is to be provided to the site entrance across the kerb and footway area, with splayed edges, unless access is via an existing concrete crossover.

The applicant/builder is required to hold Public Liability Insurance, with a minimum liability of $5 million and a copy of the Insurance cover is to be provided to Council.

The following conditions are applied to ensure that reasonable levels of fire safety are provided in the building:

The building is required to be provided with a smoke alarm system complying with Clause 3 of Specification E2.2a of the B.C.A. or a smoke detection system complying with Clause 4 of Specification E2.2a of the B.C.A. or a combination of a smoke alarm system within the sole-occupancy units and a smoke detection system in areas not within the sole-occupancy units.

A1 The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA).
In this regard, the development consent plans do not show compliance with the deemed-to-satisfy provisions of the BCA, including:

a) Part B1 - Structural provisions
b) Part E2 - Smoke Hazard Management
c) Part E3 - Lift Installations
d) Part E4 - Emergency lighting, exit signs and warning systems
e) Part F5 - Sound Transmission and Insulation

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

ATTACHMENT/S:

A4 reduced plans

SIMA TRUUVERT
ACTING DIRECTOR PLANNING & COMMUNITY DEVELOPMENT

LUKE JACKSON
SENIOR ASSESSMENT PLANNER
Development Application Report

REPORT BY: DIRECTOR of PLANNING & COMMUNITY DEVELOPMENT

DATE: 25 March, 2003  FILE NO: D1197/2002/GA

PROPOSAL: Alterations and ground and first floor additions to the existing dwelling house including lap pool and car port.

PROPERTY: 89A Brook St Coogee

WARD: North Ward

APPLICANT: Archivision

Subject Site

Submissions received

A North

LOCALITY PLAN
1. EXECUTIVE SUMMARY

The application has been referred to the Health, Building and Planning Committee for determination at the request of Councillors Murray Matson, Bruce Notley-Smith and Margery Whitehead.

The total cost of works for the development is $170,000.

The primary issues of the application as raised by the objectors are the unauthorised use of the premises for backpacker accommodation, loss of solar access, reduced setbacks, variation to preferred floor space ratio (FSR) and the bulk, scale and character of the resultant development. A number of conditions are included in the recommendation, which address the concerns raised by objectors and reduce the impacts of the proposal.

The application is recommended for approval subject to a deferred commencement condition.

2. THE PROPOSAL

The proposal is for alterations to the ground floor of the existing dwelling including new kitchen, laundry, dining area and living room extending beyond the rear and side footprint of the original dwelling. A new first floor is proposed which will accommodate two bedrooms, a parent’s retreat and a void area above the ground floor dining room.

To the front of the site forward of the dwelling a new carport is proposed incorporating a pitched roof and a roller shutter door. Attached to this carport will be a new front boundary fence and gate. To the rear of the site a lap pool is proposed.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site contains a single storey semi-detached dwelling with a shared party wall to 89 Brook St. The site has a total area of 310sqm with a frontage of approximately 7500mm. The existing semi-detached dwelling is of a federation architectural style consistent with the adjoining semi. The adjoining semi has undertaken additions to the secondary street frontage in the form of a carport however this has not disrupted the visual consistency to the Brook St frontage.
The surrounding streetscape is eclectic in both character and scale, to the south No. 91 Brook St is a red brick three storey multi unit development approved in 1962. Adjoining the subject site are attached and detached dwelling houses some of a more contemporary design others of a similar age as that of the subject dwelling.

There are some examples of parking structures forward of the building line within the immediate locality. The intact semi-detached dwellings of the federation era contribute positively to the quality of the streetscape.

4. SITE HISTORY

a. APPLICATION HISTORY

The development application was lodged with Council on the 18 December 2002. The application was notified on the 3 January 2003 to adjoining property owners. During this notification period an adjoining property owner, no. 89 Brook St alerted Council that some letters were not received by neighbouring property owners. A second issue with the detail of the description provided as part of the notification letter was also raised. As a result of these concerns Council made the decision to renotify the application for a further 14 days with an amended and more detailed description on the 16 January 2003.

As a result of the renotification carried out in accordance with Clause 23-Notification procedures for development applications of Randwick Local Environmental Plan 1998 Council has fulfilled all its statutory obligations for notification under the Environmental Planning and Assessment Act 1979.

5. COMMUNITY CONSULTATION:

The proposal has been notified in accordance with the Local Environmental Plan 1998. The following submissions were received:

5.1 Objections

Pro Forma letter submitted by the following properties:

G Katsionis
5/91 Brook St

M Cox & F Patterson
1/91 Brook St

E Chernin
93 Brook St

D White
2/91 Brook St

D & F Johnson
6/91 Brook
F & S Blomberg
4/91 Brook St

G Daly
89 Brook St

S Nicholson
1 Arcadia St

- **Bulk, size and height of the first floor addition will impact on solar access to. No. 91**

  Comment  
The additional shadow cast for the winter solstice is detailed in the shadow diagrams submitted with the application. Given the orientation of the site the level of overshadowing will fall to the northern elevation of the multi unit development known as no. 91 Brook St. It is considered that whilst there will be an additional impact this will fall predominantly to the roof and to the rear yard of the affected property, and is not considered to be unreasonable. This matter is discussed further under environmental assessment section of this report.

- **The shadow diagrams are inadequate, building profiles should be provided.**

  4.13 **Comment**  
  Shadow diagrams submitted with the application meet the requirements of the development control plan where there are no habitable rooms oriented to the northern elevation. An internal floor plan submitted to Council indicates that rooms to the northern elevation are either bedrooms or utility areas. A site inspection to the exterior of the affected property confirmed this floor plan.

- **Side setback will be decreased from 1970mm to 900mm**

  4.14 **Comment**  
  Side setbacks to the ground floor are preferred to be 900mm from the boundary, and the ground floor setbacks to the southern boundary achieve the pollution solution. To the first floor the setbacks to the southern boundary match that of the ground floor which does not comply with the preferred solution of 1500mm, however given the design of the dwelling, the additional setback would result in an unsympathetic and irregular built form. Building setbacks are discussed further within the body of this report.

- **Floor space ratio is exceeded and will result in additional bulk**

  4.15 **Comment**  
  The proposed FSR of 0.8:1 is a variation from the preferred solution however given the built form of the surrounding locality the proposed density of the development is not out of character. However in considering the appropriateness of a variation from
the preferred solutions any anticipated amenity impacts must be considered. Given the length of the first floor addition the first floor can be reduced by 3500mm by deleting the void area resulting in a smaller envelope. This will reduce the apparent bulk of the addition from neighbouring properties.

- **Due to the height of the addition the development will appear as excessive and out of character with existing semis**

4.16 **Comment**
The height of the additional storey achieves the preferred solution of a maximum external wall height of 7000mm. Whilst the additional storey will result in a larger and altered built form that that of the adjoining semi-detached dwelling, the first floor addition has been designed to be consistent with the built form of the pair of semis incorporating similar architectural features to ensure compatibility.

- **The scale and size may result in the dwelling being used as a backpacker’s accommodation.**

4.17 **Comment**
This matter has been explored by Council’s regulatory officers, a notice and order have been issued to the owner of the property directing the owner to ensure that the building is not used for such purposes. Additionally, conditions of consent restricting the use to a single residential dwelling will also be imposed as part of any consent.

- **The design of the addition is out of proportion with the existing semi**

4.18 **Comment**
The proposed first floor addition is designed to be set behind the ridge line so that when viewed from the street the additional storey will read as a first floor addition consistent in scale to the existing dwelling. The floor to ceiling heights and the pitch of the roof are considered to be consistent with the scale of the existing and semi-detached dwelling and are acceptable within the context of the streetscape.

- **The integrity of the adjoining semi is lost**

4.19 **Comment**
A first floor addition will not significantly alter the integrity of the two semi-detached dwellings as the first floor addition has been designed to be sympathetic to the form of the existing properties. The first floor addition will not dominate the character of the semi-detached dwellings.

- **Noise impact from lap pool**

4.20 **Comment**
The proposed swimming pool is located to the rear of the site and is setback 800mm off the side and 1000mm off the rear boundaries, there are no specific controls relating to the location of swimming pools contained within the development control plan Dwelling houses and Attached Dual Occupancies
however on merit it is considered that the 800mm setback in conjunction with landscaping and the existing dividing fence will provide sufficient sound attenuation.

It is considered that a lap pool which is designed primarily for exercise and in association with a single dwelling house is unlikely to result in an unreasonable level of noise.

- **Roller door is visually obtrusive**

4.21 **Comment**
The roller shutter door is to be deleted from the plans as part of the deletion of the carport structure.

- **Lap pool is within the zone of Sydney water sewerage pipes**

4.22 **Comment**
The onus is on the applicant/construction company to ensure the construction of the pool will not interfere with any utility services including Sydney water sewerage pipes, a condition of consent will be imposed requiring the applicant to meet the full cost of adjusting/relocating/repairing their services as arranged with the public authority.

- **Noise and pollution from vehicles using the carport**

4.23 **Comment**
The carport is deleted from the plans however a hardstand car space is to be recommended forward of the building line. Given the car space is for a single car to a residential dwelling it is considered that the level of usage is unlikely to give rise to any noticeable pollutants or noise impacts.

- **Prefer a paling fence for the rear boundary not a 2.4m brick fence which may disturb the sewerage pipes**

4.24 **Comment**
A paling fence to a height of 2400mm would be a very tall structure difficult to maintain without significant support structures, a masonry wall is also considered to be too tall at 2400mm and will result in a bulky structure on the boundary. It is considered that a wall with a height of 2100mm will be sufficient to provide a good level of privacy between the subject site and adjoining properties to the rear.

- **Poor quality of development application submission**

The development application meets the requirements of Council’s DCP Dwelling Houses and Attached Dual Occupancies for information required to be lodged as part of an application to enable for Council to undertake a proper assessment of the likely impacts of a development proposal.
Glenn Daly  
89 Brook St

- **Incorrect notification in breach of Clause 23 Notification**

**4.25 Comment**
The original notification letter as sent out had a limited proposal description omitting reference to the first floor addition, once this omission was identified the application was renotified to all the affected properties for a further period of two weeks.

Council’s records indicated that for both notifications all identified affected properties were sent out a letter, complaints that some properties did not receive notification letters was investigated however no error in the preparation of the letters was identified. It is considered that with the renotification of the development proposal including a revised description all the requirements of Clause 23 of Local Environmental Plan 1998 have been satisfied.

- **Incorrect description of the development on the notification letters**

**4.26 Comment**
This matter has been already addressed in the above discussion.

- **The height scale and size of the proposed development is excessive**

**4.27 Comment**
This matter has been previously addressed within this report.

It is considered that generally the first floor addition is consistent with the scale of the surrounding streetscape and the built form of the existing dwelling. The controls of the DCP in terms of wall length and external wall height have been met however it is considered that by deleting the first floor void this would reduce the apparent bulk of the addition to the neighbouring property without affecting the usable floor area of the subject dwelling.

- **Overlooking of addition into rear yard**

**4.28 Comment**
The first floor addition provides for bedrooms and bathrooms. Accordingly any overlooking is considered to be minimal from these identified low usage rooms. Further there are no windows proposed to the northern elevation, which would further restrict overlooking. The windows to the rear elevation are oriented primarily to the rear yard of the subject site making direct sightlines to the adjoining semi difficult however to further minimise privacy impacts the end panels are to be deleted.

- **Blocking of view of the sky as a result of the addition**
4.29 **Comment**

The neighbouring semi-detached dwelling is located to the north of the subject site and as such it is not considered that a first floor addition will provide unreasonable loss of solar access or view of the sky where visibility to the north is preserved.

- **Finishes of addition not in keeping with adjoining semi**

4.30 **Comment**

The finishes and materials of the alterations and additions will be conditioned to be consistent with the architectural resolution of the existing dwelling.

- **Excessive FSR at 0.8:1 beyond that contained within the DCP**

4.31 **Comment**

This matter has been previously discussed within the body of this report.

- **Potential impact to structural stability of the adjoining semi as a result of the works**

4.32 **Comment**

A condition of consent will be imposed requiring a dilapidation report to be prepared for the site.

6. **TECHNICAL OFFICERS COMMENTS**

*The application has been referred to the relevant technical officers, including where necessary external bodies and the following comments have been provided:*-

6.1 **Building and Construction Issues**

The application was referred to the Manager of Environmental Health and Building for comment. Comments relating to an investigation into complaints of an unauthorised use of the site as a backpackers were provided. A notice and order have been served on the owners which direct them to ensure that the building is not used for such a purpose. Conditions of consent relating to this matter and construction methods are provided in the recommendation.

6.2 **Engineering Issues**

The application was referred to Assets and Infrastructure for comment standard conditions of consent were provided.

7. **RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS**

*The Development application has been assessed in accordance with the provisions of the following relevant planning documents:*
7.1 **Randwick Local Environmental Plan 1998**

The site is zoned 2A under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council’s consent.

7.2 **Development Control Plan No.** Dwelling Houses and Attached Dual Occupancies

<table>
<thead>
<tr>
<th>CONTROLS</th>
<th>PERFORMANCE REQUIREMENTS</th>
<th>PREFERRED SOLUTIONS</th>
<th>COMPLIANCE (how applicant has achieved performance requirements of performance solutions)</th>
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</thead>
<tbody>
<tr>
<td>SOLAR ACCESS</td>
<td>P9 Neighbour’s north-facing living area windows receive at least 3 hours of sunlight over part of their surface between 9.00am and 3.00pm on 21 June. If less is already available the amount is not reduced..</td>
<td>S9 North-facing windows to living areas of neighbours receive 3 hours of sunlight over part of their surface between 9.00am and 3.00pm on 21 June. If less available the amount is not reduced.</td>
<td>Yes, adjoining multi unit development No. 91 Brook St is overshadowed however there no living room windows to the north and currently most of these windows are overshadowed.</td>
</tr>
<tr>
<td></td>
<td>P9 Neighbour’s principal outdoor area receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June. If less is already available the amount is not reduced.</td>
<td>S9 Neighbour’s principal outdoor area receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June. If less available the amount is not reduced.</td>
<td>Yes- private open space will receive adequate solar access.</td>
</tr>
<tr>
<td></td>
<td>P9 Design and siting of buildings, alterations minimises loss of solar access to neighbours.</td>
<td></td>
<td>Yes through conditions of consent to reduce the length of the first floor addition, further improved solar access is difficult due to orientation of the site.</td>
</tr>
<tr>
<td>WATER MANAGEMENT</td>
<td>P1 Stormwater disposal systems: collect and drain to a suitable disposal system; do not adversely affect existing downstream systems; fit in with hydrology; use on-site stormwater infiltration; maximise opportunities for stormwater re-use stormwater; retain existing trees.</td>
<td>S1 Stormwater is graded and drained via a gravity system to Council’s street gutter; or to a suitable absorption system.</td>
<td>Yes through conditions of consent imposed by Council’s Engineers.</td>
</tr>
<tr>
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<td></td>
<td>S2 Triple A rated fixtures. Dual flush toilets installed.</td>
<td>Yes through condition of consent imposed for reduce water consumption within the dwelling.</td>
</tr>
<tr>
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<tr>
<td>P2</td>
<td>Water consumption minimised inside dwelling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LANDSCAPING &amp; OPEN SPACE</td>
<td>P1 Landscaped areas suit requirements of the dwelling occupants.</td>
<td>S1 40% of the total site area is landscaped.</td>
<td>Yes 51% of the site provided as landscaped area.</td>
</tr>
<tr>
<td></td>
<td>P2 Location and design of private open space: allows year-round use minimises impact on neighbours addresses privacy and sun access addresses surveillance, privacy and security.</td>
<td>S1 25m² of useable private open space per dwelling.</td>
<td>Yes greater than 25sqm provided.</td>
</tr>
<tr>
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<td></td>
<td>S1 Minimum dimensions are 3m x 4m.</td>
<td>Yes greater than minimum dimensions.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S1 Private open space is located behind the building line.</td>
<td>Private open space located to the rear of the dwelling.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S6 20% of the site area is permeable.</td>
<td>Yes just more than 20% provided as soft landscaping.</td>
</tr>
<tr>
<td>FLOOR AREA</td>
<td>P1 Building bulk must be compatible with surrounding built forms, minimise effects on neighbours and streets.</td>
<td>FSR &gt;300 to 450m² 0.6:1</td>
<td>No FSR 0.8:1 which exceeds the preferred solution however the bulk is considered to be compatible with streetscape and minimal impacts to surrounding properties. Performance requirements are achieved.</td>
</tr>
<tr>
<td>HEIGHT, FORM &amp; MATERIALS</td>
<td>P1 Height relates to surrounding streetscape. P2 Designed to enhance built form and character of street. P4 Design preserves privacy and natural light access to neighbours.</td>
<td>S1 Maximum 7m external wall height for house or attached dual occupancy.</td>
<td>Yes external wall height maximum 6.8m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S4 Length of second storey portion is not greater than 12m at less than 1.5m from a southern boundary.</td>
<td>No, length is greater than 12m. For the rear portion of addition the 10.4m is setback less than 1.5m from southern boundary (see section 8.3).</td>
</tr>
<tr>
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<tr>
<td>P5</td>
<td>Second storey of a semi detached dwelling integrates with streetscape and adjoining dwelling.</td>
<td>S5 Second storey potion of a semi is confined within an existing roof space or setback from the front elevation and respects the symmetry of the adjoining semi.</td>
<td>Yes is setback from front elevation and respects the symmetry of the two semi detached dwellings.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BUILDING SETBACKS</th>
<th>PERFORMANCE REQUIREMENTS</th>
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<tr>
<td>Front Setback</td>
<td>P1 Generally conforms with adjoining development or dominant setback along street.</td>
<td>S1 The average of adjoining dwelling or 6m setback where no adjoining dwelling.</td>
<td>No, carport forward of the building line is to be deleted to achieve preferred solution and to improve appearance to the streetscape.</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>P2 Allow neighbours adequate access to natural light, view sharing and retains trees and vegetation.</td>
<td>S2 No closer than 4.5m.</td>
<td>Yes.</td>
</tr>
<tr>
<td>Side Setback</td>
<td>P3 Allow occupants and neighbours adequate access to natural light, daylight and fresh air.</td>
<td>S3 900mm for any part over 1m above ground level up to one level in height. 1.5m for any part of a building, two levels at that point.</td>
<td>No, for rear section of addition however the length is to be reduced improving solar access to neighbouring property.</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>VISUAL &amp; ACOUSTIC PRIVACY</th>
<th>PERFORMANCE REQUIREMENTS</th>
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<tr>
<td>P1 Overlooking neighbouring internal living areas and private open spaces is minimised.</td>
<td>S1 Habitable room windows with direct outlook to others windows within 9m are offset by more than 45 degrees or have fixed obscure glazing or sill height to 1.5m.</td>
<td>Yes, no windows provided to southern elevation that are not highlight windows.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>S1 Direct view into the private open space of adjoining dwelling is obscured or screened within 9m.</td>
<td>Condition deleting end panels to upper level rear windows.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>S1 Windows have sill heights of 1.5m or more above floor level or fixed obscure glazing to any part of</td>
<td>Yes for southern elevation to first floor.</td>
<td></td>
</tr>
</tbody>
</table>
## HEALTH, BUILDING & PLANNING COMMITTEE

### 13 MAY 2003

### ITEM 5.4

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<tr>
<td>SAFETY AND SECURITY</td>
<td>P2 Entries are readily identifiable.</td>
<td>the window less than 1.5m above floor level.</td>
<td>Yes with the deletion of the carport.</td>
</tr>
<tr>
<td></td>
<td>P3 Front fences, landscape areas and driveways promote safety and security.</td>
<td>S1,2,3 Front doors visible from street.</td>
<td>Yes.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S1,.3 At least one habitable room window overlooks the street.</td>
<td></td>
</tr>
<tr>
<td>GARAGES, DRIVEWAYS &amp; CAR PARKING</td>
<td>Note: Council’s car parking DCP requirements:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1-2 bedroom 1 space 3 bedroom 2 spaces</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>P1 <strong>Are located and designed for convenience and safety.</strong></td>
<td>S1 Car parking spaces have minimum dimensions of 5.5 metres x 2.5 metres.</td>
<td>Yes.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Driveways have a minimum width of three metres and are set back at least one metre from the side boundary (max width 3m at boundary). Driveway gradients have a maximum of 1 in 6. The gradient for the first 5m from street not more than 1 in 8.</td>
<td>Yes.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S2 Carports and garages located behind the building where rear access available, or behind building line where front access available.</td>
<td>No, carport to be converted to a hardstand space.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S3 Driveways, car parking facilities &lt;35% of frontage.</td>
<td>No, greater than 35% however this will not have an impact as the structure is only a hardstand space.</td>
</tr>
<tr>
<td>FENCES</td>
<td>P1 Front fences are integrated with streetscape.</td>
<td>Fences in front of the building line no higher than 1.8m with upper two thirds at least 50% open. (Not applicable in Heritage</td>
<td>Yes, upper two thirds open with a maximum height of the pillars 1500mm.</td>
</tr>
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ITEM 5.4
8. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

8.1 Solar access and energy efficiency

The level of overshadowing indicated on the shadow diagrams for the winter solstice suggests that the worst affected property is the multi unit development at No. 91 Brook St. No. 91 Brook St will experience overshadowing to the northern elevation from 9am until 12pm, from 12 noon onwards the western end of the northern elevation will enjoy some sunlight. From 12noon onwards the rear yard occupied by garages and clotheslines will be in shadow.

The level of solar access provided is considered to achieve the performance requirements of the control where north-facing windows off living areas to neighbouring properties is maximised. The windows to the northern elevation are not off living areas, an internal floor layout plan indicated that these rooms are bedrooms and utility rooms not primary living areas. On balance it is considered that the performance requirements of the control have been satisfied as part of this proposal.

No. 91 Brook St is currently overshadowed by the existing semi detached dwelling. Due to the orientation of the site the erection of any first floor addition irrespective of the design would result in reduced solar access for the neighbouring property to the south.

By partially reducing the length of the first floor addition by 3500mm the level of overshadowing will be reduced and is considered a reasonable improvement given that the length and height of the first floor is within Council’s requirements.

8.2 Floor Area

The proposed FSR for the site of 0.8:1 in excess of the preferred solution of 0.6:1. Whilst the variation from the preferred solution is numerically large, it is considered that the performance objectives of the control are satisfied. The bulk and scale of the first floor addition is considered to be compatible with the bulk and scale of surrounding properties. Directly to the south of the subject site is a three storey multi-unit development and the surrounding properties include a number of first floor rear windows additions of similar bulk and scale.
To reduce the apparent bulk but not the FSR, the void area to the first floor is recommended for deletion which reduces the wall length to the southern boundary and improves the aspect of the addition from this perspective.

The appearance of the dwelling and first floor addition from the street is considered to be acceptable and will not dominate the built form of the existing pair of semi-detached dwellings or the character of the streetscape.

8.3 Building Setbacks

The proposed ground floor side setbacks are unchanged for the front section of the dwelling however the footprint is being extended to 900mm for the new rear living areas. This achieves the preferred solution and no objection is raised.

As outlined in the compliance table, the first floor setbacks for the southern boundary do not achieve the preferred solution of 1500mm. It is considered that the reduced first floor setback allows for adequate separation between the subject site and the adjoining multi unit development and that the setback does not detract from the dominant pattern of side setbacks within the street. It is also considered that whilst there will be overshadowing experienced to the adjoining property (No. 91 Brook St) increasing the side setback by 600mm to comply with the preferred solution would not dramatically improve the level of solar access enjoyed. Further, increasing the side setback for the first floor level would result in an asymmetrical built form, which would detract from the character and quality of the dwelling.

8.4 Garages, Carport and Driveways

The proposed carport forward of the building line would result in 57% of the site frontage being dedicated to parking structures which does not achieve the preferred solution. Further the performance requirements of the control are not achieved with the design of the carport as it would have a detrimental impact on the appearance of the existing dwelling and the streetscape.

A condition of consent will be imposed which will convert the carport to a hardstand car space which whist still greater than 35% of the site frontage would not have such a detrimental impact.

The carport forward of the building line would be out of character with the existing pair of semi-detached dwellings where the facades for both dwellings are currently uniform and consistent in architectural detailing. Obscuring the front of the dwelling with a carport would be considered detrimental to the quality of the built form and streetscape.

There are some examples of garages forward of the building line within this section of Brook St however it is not such a dominant characteristic within the streetscape. The examples of carports forward of the building line were approved prior to the adoption of the current development control plan and are undesirable precedents.

8.5 Visual privacy
The proposed rear elevation includes six panel windows off the first floor. It is considered generally that direct sightlines would be obscured to the adjoining internal private open space however to minimum privacy loss to the neighbouring properties to both the north and south of the site the two end panels to the first floor rear windows shall be deleted.

9. CONCLUSION

It is considered that the proposed development is appropriate on the site given the objectives and performance requirements of the DCP – Dwelling Houses and Attached Dual Occupancies.

Subject to a number of conditions including the reduction in the length of the upper level addition, the proposal will not result in significant amenity impacts on surrounding properties or the quality of the streetscape.

The application satisfies the relevant assessment criteria and is therefore recommended for approval.

RECOMMENDATION:

A. THAT Council as the responsible authority grant its development consent as a Deferred Commencement under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. 1197/02 for alterations and ground and first floor additions to the existing semi-detached dwelling including carport and lap pool at 89A Brook St Coogee subject to the following conditions:-

Deferred Commencement Conditions:

The consent is not to operate until the following material has been submitted to and approved by the Director Planning and Community Development:

1. Deletion of the void area to the first floor to reduce the length of the addition by 3.5m with the parent’s retreat to be repositioned to the location of the void area. The stair shall be relocated to allow access to the amended upper level. The bedroom may need to be redesigned to allow for adequate area for the stair access.

2. The carport shown on the floor and site plans forward of the building line shall be deleted and a hard stand car space provided in the same location. The surface of the car parking area is to be suitably paved with permeable paving blocks.

3. The rear boundary wall shall be reduced in height to 2100mm to reduce the bulk of the wall to the neighbouring properties.

4. The two end panels either side of the length of openings at the upper level of the rear (east) elevation are to be deleted from the approved plans.
Subject to compliance with the deferred commencement condition, to the satisfaction of the Director Planning and Environment, development consent is granted under Section 80 & 80A of the Environmental Planning and Assessment Act 1979 subject to the following conditions:

REFERENCED PLANS:

1. The development must be implemented substantially in accordance with the plans numbered A02 378 sheet 1, dated 12/02 and received by Council on 18 Dec 2003, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

ENVIRONMENTAL AMENITY:

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

2. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the street scape.

Details of the proposed colours, materials and textures (ie. a schedule and brochure/s or sample board) are to be submitted to and approved by Council’s Director of Planning & Environment, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the proposed development.

3. The design and colour of the roof tiles to the proposed building/s are required to match, as closely as possible, the material and colour of the existing roof.

4. The premises must be used as a single residential dwelling only at all times and the premises must not be used or converted to a dual or multi-occupancy development or be used for the provision of backpackers or shared accommodation (being class 1b or class 3 building as defined in the BCA) at any time, unless the required development consent is obtained from Council.

No additional cooking or sanitary facilities other than those indicated on the approved development consent plans are to be installed in the premises without the prior consent of council.

5. The consumption of water within the building shall be minimised by the use of triple A rated water efficient plumbing fixtures (taps and shower roses) and water efficient dual flush toilets. Details of compliance are to be provided in the construction certificate plans or specifications.

6. Eaves, gutters, hoods and similar structures or attachments are required to be setback from the side boundaries of the allotment a minimum distance of 675mm.
and details of compliance are to be included in the construction certificate details.

7. The fence on the street alignment is to be a maximum height of 1.5m at any point, to maintain reasonable levels of amenity to the adjoining residential development and the street scape.

8. There must be no encroachment of any part of the structure/s onto the adjoining premises or onto Council’s road reserve, footway or public place.

9. Landscaping shall be provided to the site to reduce the impact of the swimming pool upon the amenity of the adjoining property owners and a landscape plan shall be submitted to and approved by the Director of Planning & Environment, in accordance with section 80A(2) of the Environmental Planning and Assessment Act 1979, prior to the commencement of any works.

The following group of conditions have been applied to ensure that adequate provisions are made for vehicular access, parking and public infrastructure:

10. All crossings, repairs and ancillary works on the footway and roadway are to be carried out by the Council and the cost borne by the applicant.

11. All crossings, repairs and ancillary works on the footway and roadway are to be carried out by the Council and the cost borne by the applicant. A statement, prepared by the applicant or owner of the premises is to be obtained and submitted to the Council, detailing the condition and status of the roadway, footway, vehicular crossings, nature strip and public place adjacent to the premises, prior to the commencement of any works on the site and also upon completion of the works.

DRAINAGE (CLASS 1 & 10 BUILDINGS):

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

12. Surface water/stormwater must be drained and discharged to the street gutter and details are to be included in the construction certificate details for the development.

13. Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council’s Director of Planning and Environment prior to commencement of works. The finished ground level outside of the building is required to be a minimum of:

- 150mm below the internal floor level of the building, or,
- 100mm below the internal floor level of the building in sandy, well drained areas, or,
• 50mm below the internal floor level of the building where an external paved area or slab is provided adjacent to the building, which is graded not less than 50mm over the first 1m away from the building.

14. Details of stormwater drainage are to be provided in the plans / specifications for the construction certificate. External paths and ground surfaces are to be graded and drained away from the building and adjoining premises in such a manner so as not to result in the entry of water into a building, or cause a nuisance or damage to the adjoining premises.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

15. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the requirements of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

• has been informed in writing of the licensee’s name and contractor number; and
• is satisfied that the licensee has complied with the insurance requirements of Part 6 of the Home Building Act 1989, or

Where the work to be done by any other person (i.e. an owner builder), excavation or building work must not be carried out unless the Principal Certifying Authority:

• has been informed of the person’s name and owner-builder permit number, or
• has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed $5,000.

Details of the builder and compliance with the provisions of the Home Building Act 1989 are to be submitted to Council prior to the commencement of works, on the notice of appointment of the PCA / Intention to commence building work.

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

16. A dilapidation report prepared by a professional engineer or suitably qualified and experienced building surveyor shall be submitted to the certifying authority prior to the commencement of demolition, excavation or building works detailing the current condition and status of all buildings, including ancillary structures (i.e. including dwellings, residential flat buildings, commercial/industrial building,
garages, carports, veranda’s, fences, retaining walls, swimming pools and driveways etc.) located upon:

a. 89 Brook St Coogee

The report is to be supported with photographic evidence of the status of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the abovestated premises, prior to the commencement of any works.

17. A Certificate of Adequacy supplied by a professional engineer shall be submitted to the certifying authority (and the Council, if the Council is not the certifying authority) prior to a construction certificate being issued for the development, certifying the structural adequacy of the existing structure to support the additional storey.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

18. All demolition work is to be carried out in accordance with the provisions of AS2601-1991. The Demolition of Structures, as in force at 1 July, 1993. A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be available to the Council officers upon request.

19. The building works are to be inspected by the Principal Certifying Authority (or other suitably qualified person, to the satisfaction of the Principal Certifying Authority), to monitor compliance with the relevant standards of construction and Council’s development consent.

The Principal Certifying Authority shall specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and compliance with Council’s approval is to be maintained by the Principal Certifying Authority. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life or property.

20. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- preserve and protect the building /s on the adjoining land from damage; and
- if necessary, underpin and support the building in an approved manner; and
• at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention to do so to the owner of the adjoining land. Particulars of the excavation are to be provided to the owner of the adjoining land and also the owner of the land where the building is being erected or demolished.

21. Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000. Prior to the commencement of any building work, a principal certifying authority must be appointed and Council is to be notified accordingly and, at least 2 days notice of the intention to commence building work must be given to Council, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

22. A Registered Surveyor’s check survey certificate or compliance certificate is to be forwarded to the principal certifying authority (and a copy is to be forwarded to the Council, if the Council is not the principal certifying authority), detailing compliance with Council’s approval at the following stage/s of construction:

• Prior to construction of the first completed floor/floor slab (prior to pouring of concrete), showing the area of land, building and boundary setbacks and verifying that the building is being constructed at the approved levels.
• On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks.

23. Building and demolition works must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive, between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and public holidays, except with the specific written authorisation of Council’s Manager of Environmental Health and Building Services.

24. A sign must be erected on the site in a prominent, visible position, prior to commencing any demolition, excavation or building works, stating that ‘unauthorised entry to the site is prohibited’ and showing the name of the person in charge of the work site and a telephone number at which the person may be contacted outside working hours.

25. In the case of residential building work, the sign is also required to detail the licence number of the building contractor or the permit number of the owner-builder, in accordance with the Home Building Act 1989 and Regulations. Noise emissions during the construction of the building and associated site works must comply with the relevant provisions of the Protection of the Environment Operations Act 1997 & the Noise Control Manual published by the Environment Protection Authority, except as may be amended by the conditions of this approval. Public safety and convenience must be maintained at all times during demolition, excavation and construction works.
26. A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.

Any damage caused to the road or footway must be repaired immediately, to the satisfaction of Council.

27. Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions and debris at all times.

28. Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written consent of the Council, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from an approval under Council’s Local Approvals Policy.

29. Any building/demolition works involving asbestos cement are to be carried out in accordance with the Work Cover New South Wales “Guidelines for Practices Involving Asbestos Cement in Buildings”.

30. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing. Stockpiles of soil, sand, aggregate or other materials must not be located on any drainage line, natural watercourse, footpath, roadway or any public place and the stockpiles must be protected with adequate sediment control measures.

31. Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

32. Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

33. Hoarding or fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible. The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.
34. Any part of Council’s nature strip which is damaged as a result of the work must be back-filled, top-soiled and re-turfed with kikuyu turf prior to occupation or finalisation of the development, to Council’s satisfaction.

The following conditions are applied to ensure that reasonable levels of fire safety are provided in the building:

35. Smoke alarms are required to be installed in each Class 1 building or dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located in ‘dead-air-spaces’, in the corner junction of walls and ceilings between exposed rafters/joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the B.C.A. – Housing Provisions.

Details of compliance with the provisions of the Building Code of Australia must be included in the plans / specification for the construction certificate.

The following conditions are applied to ensure compliance with the Swimming Pools Act 1992 and to maintain public safety and amenity:

36. Swimming pools are to be provided with childproof fences and self-locking gates, in accordance with the Swimming Pools Act 1992 and regulations.

37. The swimming pool is to be surrounded by a fence having a minimum height of 1.2m, that separates the pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with AS 1926-1986.

Gates to pool area shall be a maximum width of 1 metre, and be self-closing and latching; the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.

38. A sign shall be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the document entitled “Policy Statement No.9.4.1: Guidelines for the Preparation of Posters on Resuscitation”, published in
1985 by the Australian Resuscitation Council and the sign must bear a notice that contains the words “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL”, together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the document entitled “Cardio Pulmonary Resuscitation” published by the Australian Resuscitation Council. Swimming pools are to be designed and installed in accordance with the following general requirements:

- Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation.

- All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises.

- Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.

39. Details of proposed methods of complying with the swimming pools Act 1992 must be provided with the construction certificate application.

SECURITY DEPOSIT CONDITIONS
The following conditions are applied to provide adequate security against damage to Council’s infrastructure:

40. The following security deposits requirements are to be complied with prior to the construction certificate being issued for the development, as security for making good any damage caused to the roadway, footway, verge or any public place; or as security for completing any public work; and for remediying any defect on such public works, in accordance with section 80A(6) of the Environmental Planning and Assessment Act 1979:

   a) $700.00 - Vehicular crossing deposit

   The vehicular crossing deposit may be provided by way of cash or cheque with the Council and is refundable upon the completion of the Council vehicular crossing.

TRAFFIC CONDITIONS/CIVIL WORKS CONDITIONS
The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

41. The applicant must meet the full cost for Council or a Council approved contractor to:

42. Construct a full width concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site.
43. Reconstruct the concrete footpath along the full site frontage to meet the new issued footpath levels for the proposed carspace. Any unpaved areas on the nature strip must be turfed and landscaped to Council’s specification.

44. 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.

45. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.

ALIGNMENT LEVEL CONDITIONS
The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

46. The design alignment level at the property boundary for the driveway entrance must be as follows:

**Driveway Entrance** – 50mm below the existing Council footpath level.
**Pedestrian Gate Entrance** - match the existing Council footpath level.

Any enquiries regarding this matter should be directed to Council’s Assets & Infrastructure Services Department on 9399 0923.

47. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

48. The above alignment levels and the site inspection by Council’s Department of Asset & Infrastructure Services have been issued at a prescribed fee of $68.20 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

49. The top of footings of any structures constructed on the boundary alignment must be at least 150mm below the alignment level as specified for the vehicular access. This condition has been attached to accommodate future footpath reconstruction at this location.

The following conditions are applied to provide adequate consideration for service authority assets:
50. 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.

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

**The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:**

52. That part of the naturestrip 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 'ANL Organic Garden Mix', and re-turfed with Kikuju turf. Such works shall be completed at the applicants expense prior to the issue of the Occupation Certificate.

The naturestrip upon Council's footway shall be maintained by the applicant in accordance with Council guidelines. Such maintenance shall include, but not be limited to, watering, mowing, fertilising, and the removal of weeds.

**Tree Management**

53. Approval is granted for the removal of the following tree subject to the planting of 1 x 45 litre broad canopied replacement tree (not palm) within the site. The species selected shall be one that will attain a minimum height of 6 metres at maturity.

(a) One Frangipani (Plumeria alba) located to the east of the front of the property.

54. Permission is granted for the removal of only those trees falling within the area occupied by the approved works. Removal of the remaining trees on the site are subject to separate application under the Tree Preservation Order.

55. The applicant shall be required to ensure the retention and long term health of all trees located on adjoining properties adjacent to the proposed development. As a general guide there shall be minimal excavation or root pruning within the driplines of the subject trees.

**Advisory Conditions**

The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
ATTACHMENT/S:

A4 reduced plans

SIMA TRUUVERT
ACTING DIRECTOR PLANNING & COMMUNITY DEVELOPMENT

AOIFE WYNTERT
ENVIRONMENTAL PLANNING OFFICER
Development Application Report

REPORT BY: DIRECTOR of PLANNING & COMMUNITY DEVELOPMENT

DATE: 23 April, 2003  FILE NO: 03/00151/GB

PROPOSAL: Erection of garage (with storage space above) and swimming pool at front of existing dwelling and modifications to front fence

PROPERTY: 38 Elaroo Avenue, Phillip Bay

WARD: South Ward

APPLICANT: Mr. M. T. Hoskins

Submissions received

LOCALITY PLAN

North
1. **EXECUTIVE SUMMARY**

The application is referred to the Health, Building and Planning Committee at the request of Councillors Matthews, Seng and Notley-Smith.

The estimated cost of the proposed works is $45,000.00.

The application proposes the erection of a garage (with storage space above) and a swimming pool at the front of the existing dwelling and modifications to the existing front fence. The proposal does not satisfy the relevant assessment criteria and will have an inappropriate and adverse streetscape impact.

The application is recommended for refusal.

2. **THE PROPOSAL**

*The application includes the following elements:*

- A garage (9.45m long and 3.9m wide) forward of the front building line, extending to within 1.5m of the front property boundary. The structure would contain a storage level above the garage itself, such that the Elaroo Avenue elevation would have a maximum external wall height of 5.1m.
- A 9.45m long section of roof covering a walkway between the proposed garage/storage structure and the south-eastern side boundary.
- A swimming pool (4.3m wide and up to 8.2m long) forward of the front building line.
- An increase in the height of the front fence and that section of the north-western side fence forward of the front building line, resulting in a 2m high solid front fence.

3. **THE SUBJECT SITE AND SURROUNDING AREA**

The subject site is located on the northern side of Elaroo Avenue, between Tasman Street and Adina Avenue. The site has a frontage to Elaroo Avenue of 12.19m, a rear boundary of 12.19m, side boundaries of 36.58m and an area of 445.91sqm. The site contains a detached, single storey dwelling house. Part of the front yard is hard paved and is used for the parking of motor vehicles. The surrounding locality is largely residential and consists mainly of detached dwelling houses.
4. **SITE HISTORY**

- 91/01206/BZ: New dwelling. Approved 14/01/92.
- 96/00637/BF: Alterations/first floor addition to dwelling. Approved 20/01/97. (First floor additions have not been carried out.)

5. **COMMUNITY CONSULTATION**

The proposal has been notified in accordance with the Development Control Plan - Public Notification of Development Proposals and Council Plans. Surrounding properties were notified of the development application by letter dated 7 March 2003 (for a period of 14 days). No submissions were received.

6. **TECHNICAL OFFICERS COMMENTS**

The application has been referred to the relevant technical officers, and the following comments have been provided:

6.1 **Engineering Issues**

Council’s Director of Asset & Infrastructure Services (AIS) advises as follows:

“**Landscape Comments**

There is one tree that may be affected by the proposed works, including:

1. One specimen of Norfolk Island Hibiscus (Lagunaria patersonia) located towards the front of the site along Council’s nature strip. This tree is in the order of 6 metres in height appears to be in good condition and is covered by Council’s Tree Preservation Order. This tree should be retained as part of this application and tree protection measures will be required during construction.

**Service Authority Comments**

It is noted that the survey plan shows a steel pipe located at the surface of the existing driveway. The issued alignment levels may necessitate lowering of the levels along the driveway and consequently may necessitate the steel pipe being relocated/removed depending on the purpose of the pipe.

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

The AIS section does not object to the application being approved, subject to the imposition of particular conditions.

7. **MASTER PLANNING REQUIREMENTS**

The site is less than 4000sqm in area and so is not affected by master planning requirements.
8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The Development application has been assessed in accordance with the provisions of the following relevant planning documents:

- Randwick Local Environmental Plan 1998.
- Environmental Planning and Assessment Act 1979 as amended.
- Building Code of Australia.
- Development Control Plan - *Dwelling Houses and Attached Dual Occupancies*.

8.1 Randwick Local Environmental Plan 1998

The site is zoned Residential 2A under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council’s consent

8.2 Randwick Development Control Plan - Dwelling Houses and Attached Dual Occupancies

<table>
<thead>
<tr>
<th>CONTROLS</th>
<th>PERFORMANCE REQUIREMENTS</th>
<th>PREFERRED SOLUTIONS</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOLAR ACCESS</td>
<td></td>
<td>S1 New dwellings provide certificate complying with a minimum (Nathers) rating of 3.5 stars or equivalent.</td>
<td>Not applicable: proposed garage (with storage space above) and swimming pool.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S2 8 North-facing windows to living areas received at least 3 hours of sunlight over part of their surface between 9.00am and 3.00pm on 21 June.</td>
<td>Complies: Doesn’t reduce access of sunlight to north-facing windows of living areas.</td>
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<td>S2 Private open space receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June.</td>
<td>Complies: Doesn’t reduce access of sunlight to private open space.</td>
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<tr>
<td></td>
<td></td>
<td>S9 North-facing windows to living areas of neighbours receive 3 hours of sunlight over part of their surface between</td>
<td>Complies: Doesn’t reduce access of sunlight to north-facing windows of</td>
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<td>9.00am and 3.00pm on 21 June. If less available the amount is not reduced.</td>
<td>living areas of neighbouring properties.</td>
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<td></td>
<td>S9 Neighbour’s principal outdoor area receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June. If less available the amount is not reduced.</td>
<td>Complies; principle recreation areas will receive 3 hours of sunlight.</td>
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<td>P10 Construction materials are energy efficient and recyclable.</td>
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<td>Sunlight over part of their surface between 9.00am and 3.00pm on 21 June. If less is already available the amount is not reduced.</td>
<td>Complies; principle recreation areas will receive 3 hours of sunlight.</td>
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<td>P1 Stormwater disposal systems: collect and drain to a suitable disposal system; do not adversely affect existing downstream systems; fit in with hydrology; use on-site stormwater infiltration; maximise opportunities for stormwater re-use stormwater; retain existing trees.</td>
<td>Complies; principle recreation areas will receive 3 hours of sunlight.</td>
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<td>S1 Stormwater is graded and drained via a gravity system to Council’s street gutter; or to a suitable absorption system.</td>
<td>Complies; principle recreation areas will receive 3 hours of sunlight.</td>
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<td>S2 Triple A rated fixtures. Dual flush toilets installed.</td>
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<td>A suitable condition can be included in the recommendation if the recommendation is for approval.</td>
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<td>Not applicable: no water related fixtures are proposed.</td>
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<td>S1 Minimum dimensions are 3m x 4m.</td>
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<td>S1 Private open space is located behind the building line.</td>
<td>Complies &gt; 25m²</td>
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<td>S1 40% of the total site area is landscaped.</td>
<td>Complies &gt; 25m²</td>
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</table>

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<tr>
<th>LANDSCAPING &amp; OPEN SPACE</th>
<th>P1 Landscaped areas suit requirements of the dwelling occupants.</th>
<th>S1 40% of the total site area is landscaped.</th>
<th>Complies: approximately 42% of site is landscaped.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>P2 Location and design of private open space: allows year-round use minimises impact on neighbours addresses privacy and sun access addresses surveillance, privacy and security. P3 Local indigenous plant species used. P4 Existing trees and shrubs retained.</td>
<td>S1 25m² of useable private open space per dwelling. S1 Minimum dimensions are 3m x 4m. S1 Private open space is located behind the building line.</td>
<td>Complies: approximately 42% of site is landscaped.</td>
</tr>
</tbody>
</table>

Complies > 25m²

Complies dimensions include >3m x > 15m

Does not comply. Most private open space would be located forward of front building line.
## Controls Performance Requirements

<table>
<thead>
<tr>
<th>Controls</th>
<th>Performance Requirements</th>
<th>Preferred Solutions</th>
<th>Compliance (how applicant has achieved preferred solutions).</th>
</tr>
</thead>
<tbody>
<tr>
<td>P5</td>
<td>Planting will not obscure or obstruct dwelling entities or personal safety.</td>
<td>S6 20% of the site area is permeable.</td>
<td>Does not comply: approximately 7% of site would exist as soft landscaping.</td>
</tr>
<tr>
<td>P6</td>
<td>Unpaved or unsealed landscaped areas are maximised.</td>
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</tr>
</tbody>
</table>

## Floor Area

<table>
<thead>
<tr>
<th>Controls</th>
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<th>FSR</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>P1</td>
<td>Building bulk must be compatible with surrounding built forms, minimise effects on neighbours and streets.</td>
<td>(&lt;300\text{m}^2) 0.65:1 (&gt;30 \text{ to } 450\text{m}^2) 0.6:1 (451-600\text{m}^2) 0.9(\text{Site Area(m}^2) 1500 (&gt;600\text{m}^2) 0.5:1</td>
<td>Complies 0.48:1</td>
</tr>
</tbody>
</table>

## Height, Form & Materials

<table>
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<tr>
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<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>P1</td>
<td>Height relates to surrounding streetscape.</td>
<td>S1 Maximum 7m external wall height for house or attached dual occupancy.</td>
<td>Complies 5.1m</td>
</tr>
<tr>
<td>P2</td>
<td>Designed to enhance built form and character of street.</td>
<td>S1 Maximum 3.5m external wall height of buildings or additions to the rear.</td>
<td>N/A</td>
</tr>
<tr>
<td>P3</td>
<td>Design relates to the topography with minimal cut and fill.</td>
<td>S3 Cut or fill does not exceed 1m.</td>
<td>Complies</td>
</tr>
<tr>
<td>P4</td>
<td>Design preserves privacy and natural light access to neighbours.</td>
<td>S3 No excavation within 900mm of side boundary.</td>
<td>Complies</td>
</tr>
<tr>
<td>P5</td>
<td>Second storey of a semi detached dwelling integrates with streetscape and adjoining dwelling.</td>
<td>S3 No excavation within 3m of rear boundary.</td>
<td>Complies</td>
</tr>
<tr>
<td>P6</td>
<td>Design allows view sharing.</td>
<td>S4 Length of second storey portion is not greater than 12m at less than 1.5m from a southern boundary.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

## Building Setbacks

<table>
<thead>
<tr>
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<th>Preferred Solutions</th>
<th>Compliance</th>
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</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td>Generally conforms with adjoining development or dominant setback along street.</td>
<td>S1 The average of adjoining dwelling or 6m setback where no adjoining dwelling.</td>
<td>Does not comply: 1.5m front setback.</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>Allow neighbours adequate access to natural light, view sharing and retains trees and vegetation.</td>
<td>S2 No closer than 4.5m.</td>
<td>N/A</td>
</tr>
<tr>
<td>Side Setback</td>
<td></td>
<td>Side Setbacks</td>
<td></td>
</tr>
<tr>
<td>P3</td>
<td>Allow occupants and neighbours adequate</td>
<td>S3 900mm for any part over 1m above ground level up to one</td>
<td>Complies: 1.5m from eastern side</td>
</tr>
<tr>
<td>CONTROLS</td>
<td>PERFORMANCE REQUIREMENTS</td>
<td>PREFERRED SOLUTIONS</td>
<td>COMPLIANCE (how applicant has achieved preferred solutions)</td>
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<tr>
<td></td>
<td>access to natural light,</td>
<td>level in height.</td>
<td>boundary, &gt;6m from western side boundary.</td>
</tr>
<tr>
<td></td>
<td>daylight and fresh air.</td>
<td>1.5m for any part of a building, two levels at that point.</td>
<td>Complies: 1.5m from eastern side boundary, &gt;6m from western side boundary.</td>
</tr>
<tr>
<td></td>
<td>Side setbacks on corner allotments must integrate with established setbacks of both streets and maintain the streetscape.</td>
<td>3.0m for any part of a building more than two levels at that point.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

| VISUAL & ACOUSTIC PRIVACY | P1 Overlooking neighbouring internal living areas and private open spaces is minimised. | S1 Habitable room windows with direct outlook to others windows within 9m are offset by more than 45 degrees or have fixed obscure glazing or sill height to 1.5m. | Complies. |
|                          | S1 Direct view into the private open space of adjoining dwelling is obscured or screened within 9m. | S1 Windows have sill heights of 1.5m or more above floor level or fixed obscure glazing to any part of the window less than 1.5m above floor level. | Front window of garage/storage structure does not comply. |
|                          | S1,2,3 Front doors visible from street. | S1,3 At least one habitable room window overlooks the street. | Does not comply: proposed garage/storage structure would obscure view of front door from street. |
|                          | S2 Car parking spaces have minimum dimensions of 5.5 metres x 2.5 metres. | S2 Street number displayed. | Complies |

| SAFETY AND SECURITY | P2 Balconies provide adequate privacy for occupants. | S1,3 Front doors visible from street. | Complies |
| GARAGES, DRIVEWAYS & CAR PARKING | Note: Council’s car parking DCP requirements: 1-2 bedroom 1 space 3 bedroom 2 spaces | S1 Car parking spaces have minimum dimensions of 5.5 metres x 2.5 metres. | Complies. |
|                      | P1 Are located and designed for convenience and safety, enable the efficient use of car spaces. safe, efficient, adequate manoeuvrability. | Driveways have a minimum width of three metres and are set back at least one metre from the side boundary (max width 3m at boundary). | Does not comply: driveway has a width of 5.3m at property boundary. |
|                      | | Driveway gradients have a maximum of 1 in 6. The gradient | Complies. |
9. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

9.1 Floor Area

The objective and performance requirements of the DCP are that developments are not excessive in bulk or scale, that they are compatible with the existing character of the locality and also that they minimise adverse effects of bulk on neighbouring properties and the street.

The preferred solution for an allotment of this area is that a maximum floor space ratio (FSR) of 0.6:1 applies.

The storage area on the first floor of the proposed building (33.02sqm) would constitute floor area and would contribute to the overall FSR of the development. Upon completion of the proposed works, the proposal would have an FSR of 0.48:1 which satisfies the preferred solution.

The proposed building (containing a garage with storage space above) would appear excessive in bulk and scale and would not be compatible with the existing character of the locality. The performance requirements of the DCP in relation to floor area indicate that building bulk must be compatible with surrounding built forms and must minimise adverse effects of bulk on neighbours, streets and public open space.

The proposed garage would not be compatible with the existing character of the locality as there are no other properties in this section of Elaroo Avenue with garage structures forward of the front building line of a two storey scale. Furthermore no
other properties in this section of Elaroo Avenue contain structures which are as dominant in the streetscape.

9.2 Landscaping

The objectives and performance requirements of the DCP with regard to landscaping are that existing significant trees and landscaping are retained and enhanced, that dwellings are provided with usable outdoor recreation area, that storm water management and the appearance, amenity and energy efficiency of the dwelling is improved through integrated landscape design and that the native wildlife populations are preserved and enhanced through appropriate planting of indigenous vegetation.

Preferred solutions include that a minimum of 25m² of useable private open space is provided, that a minimum of 40% of the total site area is provided as landscape area, half of which should be soft permeable landscaping, and that each dwelling’s private open space should be capable of containing a rectangle of minimum dimensions of 3m x 4m with minor changes in level.

Approximately 42% of the site currently exists as landscaped area. Upon completion of the proposed works, the amount of the site which exists as landscaped area would be approximately the same as the amount which currently exists (as a swimming pool is considered to constitute landscaped area). Approximately 20% of the site currently exists as soft landscaping (being the area in the front yard that is not used as a car space). Upon completion of the proposed works, only 7% of the site would exist as soft landscaped area (being a small area around the edge of the proposed swimming pool).

The amount of the site covered with unsealed areas would be minimal and would not meet the performance requirements of the DCP in relation to soft landscaping.

9.3 Height, Form & Materials

The objectives of the DCP are that developments should not be excessive in height and scale and that they should be compatible with the existing character of the locality, and with respect to additions that they not detract from the individual character and appearance of the existing dwelling.

The relevant performance requirements are that the height of buildings should relate to those in the existing streetscape and that buildings should be designed to enhance the existing desirable built form character of the street by adopting, where relevant, characteristics of mass and proportion, materials and finishes, roof form and pitch, facade articulation, window and door location and proportions, and verandahs, eaves and parapets.

Preferred solutions include that the external wall height of the building not exceed 7m and that the length of a second storey portion is no greater than 12m at less than 1.5m from a side boundary.
The proposed garage/storage structure would be located wholly forward of the existing front building line (as determined by the front wall of the existing dwelling). The Elaroo Avenue elevation of the garage/storage structure would have a maximum external wall height of 5.1m and would present as a two storey structure. There is no existing pattern of garages located forward of the front building line in Elaroo Avenue.

The proposed garage/storage structure would not meet the performance requirements in the DCP in that the proposed garage/storage structure is not designed to enhance the existing desirable built form character of the street. In particular, the proposed garage/storage structure would be excessive in bulk and scale and would detract from the quality of the existing streetscape.

9.4 Building Setbacks

The objectives and performance requirements of the DCP seek to ensure that there is adequate access to sunlight, daylight and fresh air to building occupants and neighbours, and with respect to front boundary setbacks that the proposal generally conforms with the adjoining or dominant streetscape.

Preferred solutions include that side setbacks be 900mm for any part of the building at ground level and 1.5m at first floor level, and that no part of the building be closer than 4.5m to the rear boundary.

The proposed garage/storage structure would not meet the performance requirements of the DCP in relation to front building setbacks. The front setback of the proposed garage/storage structure would not conform with the front setback of adjoining development. The proposed garage/storage structure would be located wholly forward of the existing front building line of the existing dwelling and would not conform with the predominant front building line which exists in Elaroo Avenue. The proposed works would comply with the preferred solutions of the DCP in relation to side setbacks.

9.5 Garages & Driveways

The objectives and performance requirements of the DCP include that car parking and driveways are not visually obtrusive and do not detract from the appearance of the dwelling and the streetscape, and that structures are compatible in scale, form, materials and finishes with the associated dwelling.

Preferred solutions include that car parking spaces have minimum dimensions of 5.5m x 2.5m, that driveways have a minimum width of 3m and are set back at least 1m from the side boundary, that parking is located behind the building line, and that car parking spaces and structures do not occupy more than 35% of the width of the allotment. Driveway gradients should not exceed a maximum of 1 in 8 for the first 5m from the street alignment and 1 in 6 thereafter.

The proposed garage/storage structure would not meet the performance requirements of the DCP in relation to garages. The length, height and siting of the proposed garage/storage structure is such that the structure would be visually obtrusive and
would detract from the appearance of the existing dwelling and from the quality of the existing streetscape. The proposed structure would not be compatible in scale with the associated dwelling house.

9.6 Fences

Generally the objectives and performance requirements for fences in the DCP are to ensure that front fencing is integrated with the streetscape and is compatible with the appearance of the dwelling and any established local fence form and material.

Preferred solutions include that solid front fences are no higher than 1200mm and that other types of fences be 1800mm maximum height and that they be designed so that the upper two thirds are at least 50% open.

The proposed alterations to the front fence would result in the fence not complying with either the preferred solutions or with the performance requirements of the DCP. The front fencing would not integrate with the surrounding streetscape and would not be compatible with the established front fence form in Elaroo Avenue which is characterised by fences which are lower and which are of a more open design that that which is proposed.

10. CONCLUSION

The proposed alterations and additions to the existing dwelling do not comply with the objectives or performance requirements of the DCP for Dwelling Houses and Attached Dual Occupancies and would result in an adverse impact upon the character of the locality.

The proposed works in the front yard of the subject site would result in approximately only 7% of the site existing as soft landscaped area, and would be located wholly forward of the front building line, presenting as a two storey structure. The proposed garage/storage structure and front fence would be excessive in bulk and scale and would detract from the quality of the existing streetscape.

The proposal does not satisfy the relevant assessment criteria and is recommended for refusal.

RECOMMENDATION

A. THAT Council as the responsible authority refuse development consent under Section 80 of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. 151/2003 for the erection of a garage (with storage space above) and a swimming pool at the front of the existing dwelling at 38 Elaroo Avenue, Phillip for the following reasons:-

1. The proposed swimming pool and garage/storage structure in the front yard would result in approximately only 7% of the site existing as soft landscaping, which does not comply with the Performance Requirement and Preferred Solution for ‘Landscaping & Open Space’ in Council’s
Dwelling Houses and Attached Dual Occupancies Development Control Plan that a minimum of 20% of the site has a permeable (soft landscaped) treatment.

2. The proposed garage/storage structure would not comply with the Performance Requirements for ‘Building Setbacks’ in Council’s Dwelling Houses and Attached Dual Occupancies Development Control Plan in that the front building setback would not conform with the front setback of adjoining development or with the dominant setback along the street.

3. The proposed garage/storage structure would not comply with the Performance Requirements for ‘Garages, Carports and Driveways’ in Council’s Dwelling Houses and Attached Dual Occupancies Development Control Plan in that the structure would detract from the appearance of the streetscape and would not be compatible in scale with the associated dwelling house.

4. The proposed garage/storage structure would not comply with the Performance Requirements for ‘Height, Form & Materials’ in Council’s Dwelling Houses and Attached Dual Occupancies Development Control Plan in that the structure would be excessive in height and scale and would not be compatible with the character of the locality.

5. The proposed front fence would not comply with the Performance requirements and Preferred Solution for ‘Fences’ in Council’s Dwelling Houses and Attached Dual Occupancies Development Control Plan that solid front fences in front of the building line are to be no higher than 1.2m and integrate with the existing streetscape.

ATTACHMENT/S:

A4 reduced plans

-----------------------------------------
SIMA TRUUVERT                      SIMON FRENCH
ACTING DIRECTOR OF PLANNING &        ENVIRONMENTAL PLANNING
ENVIRONMENT                          OFFICER
Development Application Report

REPORT BY: DIRECTOR of PLANNING & COMMUNITY DEVELOPMENT

DATE: 3 April, 2003  FILE NO: D1099/2002

PROPOSAL: Section 96 - Modification to consent for alterations and first floor addition to an existing dwelling house

PROPERTY: 19 Adams Avenue, Malabar

WARD: South Ward

APPLICANT: G Shaw
1. EXECUTIVE SUMMARY

The application has been referred to the Health, Building and Planning Committee for determination at the request of Councillors Freda Backes, Michael Daley, Alan White, Charles Mathews, Ted Seng and Bruce Notley-Smith.

The Section 96 application seeks the removal of Condition No. 2 of the delegated authority consent. This condition reduces the length of the proposed second storey addition to the rear (north-east) by approximately 3m through the relocation of the entire rear wall of the building on this storey and also reduces the floor space ratio from 0.599:1 to 0.545:1 with the preferred solution being a maximum floor space ratio of 0.525:1.

Removal of Condition No. 2 also necessitates, by implication, the deletion of Condition Nos. 3, 4 and 5 (although not specifically stated in the Section 96 application). These conditions amend the roof form and the balcony position arising from the reduced second storey addition.

All of the above mentioned conditions seek to reduce the impacts of bulk and scale, in particular visual impact arising from a large bulky, unarticulated building, overlooking to private open space of adjoining properties from a first floor rear balcony leading off a large family room and overshadowing to the adjoining property to the south in Adams Avenue (21 Adams Avenue).

The applicant argues that the proposed floor space is required to provide accommodation for a large family and that the proposed size is compatible with surrounding buildings. Condition 2 of the consent does not decrease the accommodation as originally proposed (6 bedrooms), instead it seeks to rationalise the overly generous amount of communal area proposed in the dwelling house, being lounge, living, family, sitting, computer and study rooms. Condition 2 allows the reconfiguration of the first floor family, sitting and computer rooms to a combined family and sitting area, without the loss of the computer room. The new family/sitting room maintains a generous size of up to 56m² internal floor space opening out onto a large rear first floor verandah of over 30m².

The reduced building mass and bulk and the increased rear setback to the first floor verandah, resulting from the imposition of Condition 2, minimises the impacts of overshadowing and overlooking to the neighbouring properties. As well, it achieves a more consistent floor space ratio (0.545:1) to the preferred solution and is more in line with the recently completed development to the rear at 152 Prince Edward Street (0.519:1), approved under the current development control plan.

The recommendation is for refusal.

2. THE PROPOSAL

The application proposes the modification to the consent to Development Application No. 02/01099/GA pursuant to Section 96 (2) of the Environmental Planning and Assessment Act, 1979, as amended. The application seeks the removal of Condition 2 of the consent relating to the first floor rear building...
setback and consequently Conditions 3, 4 and 5, relating to a revised roof form, first floor balcony and awning location which become redundant by the deletion of Condition 2. As such, the Section 96 application seeks approval of the plans as originally lodged. It should be noted that the Section 96 plans have not been revised to satisfy Conditions 8 and 9 relating to the numbers and sill height of first floor windows on the north-western and southern elevations to minimise overlooking and do not form part of this Section 96 application.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is located on the north-eastern side of Adams Avenue, two properties south of land zoned 6A – Open Space and known as “Rubie Reserve”. The site is irregular in shape, having a site area of approximately 563m². Existing on the site is a single storey dwelling house with a garage attached on its southern elevation, aligned with the front wall of the dwelling house (see Photo No. 1). Verandahs exist on the front (south-west) and rear (north-east) elevations. An in-ground swimming pool is located in the eastern corner of the rear yard (see Photo No.2 and 7).

Located on the adjoining property to the north-west, 17 Adams Avenue, is a two storey brick and tile attached dual occupancy (see Photo No. 3 and 6) with a first floor rear balcony set closer to the rear boundary than the subject premises, while located on the adjoining property to the south, 21 Adams Avenue, is a free-standing single storey dwelling house (see Photo No. 3) with a greater setback to the rear boundary than the subject premises. To the rear of the subject property, fronting Prince Edward Street, are one and two storey dwelling houses, with 152 Prince...
Edward Street, immediately to the rear of the subject site, being a recently approved and constructed two storey dwelling house.

4. SITE HISTORY

a. APPLICATION HISTORY

Consent to Development Application No. 02/01099//GA was granted on the 24th January, 2003, under delegated authority, for the construction of a second storey addition to the existing single storey dwelling house, subject to conditions of consent.

Condition 2 of the consent was imposed in order to reduce the floor space ratio from 0.599:1 to 0.545:1. Please note that the preferred solution for the maximum floor space ratio for the site was calculated at 0.525:1. Condition 2 reads as follows:-

“2. The second storey level being reduced at the rear by relocating the entire rear wall of this storey approximately three (3) metres to the southwest so that it is above the ground floor wall between the’ kitchen’ and ‘living’, and ‘study’ and ‘bath’. (The family room, computer room and sitting room may be internally reconfigured, relocated or removed within the reduced first floor level).

Additionally, Condition Numbers 3, 4 and 5 hang on this reduced first floor level as stipulated in Condition 2. These conditions read as follows:-

“3. The pitched roof form being reduced at the rear by approximately three (3) metres so that it sits above the relocated rear wall in a similar fashion to that in the submitted plans.
4. The balcony on the rear elevation shall be deleted from the proposed position and relocated to the 3m wide (approximately) section above the ground floor ‘living’ and ‘bath’ at the rear of the dwelling, that the family room was to occupy in the submitted plans.

5. The awning/pergola over the first floor rear balcony being relocated to cover the relocated balcony in a similar fashion to that in the submitted plans. (The awning depth may be increased to cover the 3m wide (approximately) balcony.”

5. COMMUNITY CONSULTATION:

The proposal has been notified in accordance with the Development Control Plan-Public Notification of Development Proposals and Council Plans. No submissions have been received:

6. TECHNICAL OFFICERS COMMENTS

The Section 96 modification has not been referred to the relevant technical officers, as the original application did not require referral.

7. MASTER PLANNING REQUIREMENTS

The site is a residential property with an area of 563m² and as such is well below the threshold (4,000m²) requiring a master plan.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The Development application has been assessed in accordance with the provisions of the following relevant planning documents:

(a) Randwick Local Environmental Plan 1998

The site is zoned 2A (Residential A Zone) under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council’s consent.

8.1 Policy Controls

a. Development Control Plan - Dwelling Houses and Attached Dual Occupancies

<table>
<thead>
<tr>
<th>CONTROLS</th>
<th>PERFORMANCE REQUIREMENTS</th>
<th>PREFERRED SOLUTIONS</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOLAR ACCESS</td>
<td>P2 Orientation and design maximises solar access to living areas and open</td>
<td>S2.8 North-facing windows to living areas received at least 3 hours of sunlight over part of</td>
<td>The proposed design seeks to locate the largest living space on the</td>
</tr>
<tr>
<td>CONTROLS</td>
<td>PERFORMANCE REQUIREMENTS</td>
<td>PREFERRED SOLUTIONS</td>
<td>COMPLIANCE</td>
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<tr>
<td>space.</td>
<td></td>
<td></td>
<td>new first floor with north-east, north-west and south-east windows and glazed doors. The north east glazed doors open onto a roofed balcony restricting solar access to some degree</td>
</tr>
<tr>
<td>P9 Design and siting of buildings, alterations minimises loss of solar access to neighbours.</td>
<td>their surface between 9.00am and 3.00pm on 21 June.</td>
<td>Private open space receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June.</td>
<td>Private open space of subject property remains largely unaffected by shadow impacts of the proposed addition.</td>
</tr>
</tbody>
</table>
| P9 Neighbour’s north-facing living area windows receive at least 3 hours of sunlight over part of their surface between 9.00am and 3.00pm on 21 June. If less is already available the amount is not reduced. | S2 Private open space receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June. | S9 North-facing windows to living areas of neighbours receive 3 hours of sunlight over part of their surface between 9.00am and 3.00pm on 21 June. If less available the amount is not reduced. | Accurate shadow diagrams were not received with the application (not based on AHD & shadow from rear verandah not shown), however it is apparent that the family/living room window on the side (north-western) elevation of 21 Adams Avenue will not receive 3 hours of solar access between 9 and 3pm on 21 June, while the 
<table>
<thead>
<tr>
<th>CONTROLS</th>
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<th>COMPLIANCE</th>
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<tr>
<td></td>
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<td></td>
<td>(how applicant has achieved performance requirements of performance solutions).</td>
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<td></td>
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<td></td>
<td>rear window/glass doors will be affected by overshadowing from approximately 11.00 am (standard time) onwards.</td>
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<td></td>
<td>The rear yard of the neighbour to the south (21 Adams Avenue) will be impacted by shadow from approximately 11.00 am onwards, with shadow taking up approximately half of the yard area by 3 pm.</td>
</tr>
<tr>
<td>P9</td>
<td>Neighbour’s principal outdoor area receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June. If less is already available the amount is not reduced.</td>
<td>S9 Neighbour’s principal outdoor receives 3 hours of sunlight over part of its area between 9.00am and 3.00pm on 21 June. If less available the amount is not reduced.</td>
<td>Site topography falls to the street gutter. Therefore no issues are raised in regard to draining to Council’s street gutter via a gravity system.</td>
</tr>
<tr>
<td>W9</td>
<td>Stormwater disposal systems: collect and drain to a suitable disposal system; do not adversely affect existing downstream systems; fit in with hydrology; use on-site stormwater infiltration; maximise opportunities for stormwater re-use stormwater; retain existing trees.</td>
<td>S1 Stormwater is graded and drained via a gravity system to Council’s street gutter; or to a suitable absorption system.</td>
<td>Rainwater tanks/ other storage systems collect roof run-off.</td>
</tr>
<tr>
<td></td>
<td>S1 Rainwater tanks or other storage systems collect roof run-off.</td>
<td>S1 Rainwater tanks/ other storage system are not proposed.</td>
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</tbody>
</table>
### Controls Performance Requirements

<table>
<thead>
<tr>
<th>Controls</th>
<th>Performance Requirements</th>
<th>Preferred Solutions</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>P2 Water consumption minimised inside dwelling.</td>
<td>S2 Triple A rated fixtures. Dual flush toilets installed.</td>
<td>Achieves preferred solution by condition of consent</td>
</tr>
<tr>
<td></td>
<td>P3 Water consumption minimised to landscaping.</td>
<td>S3 Landscaped area: contain low water demand plant species and design.</td>
<td>No change proposed to existing landscaped areas</td>
</tr>
<tr>
<td>Floor Area</td>
<td>P1 Building bulk must be compatible with surrounding built forms, minimise effects on neighbours and streets.</td>
<td>FSR 0.525:1</td>
<td>No FSR 0.599:1</td>
</tr>
<tr>
<td>Height, Form &amp; Materials</td>
<td>P1 Height relates to surrounding streetscape.</td>
<td>S1 Maximum 7m external wall height for house or attached dual occupancy.</td>
<td>Maximum 6.8m wall height proposed</td>
</tr>
<tr>
<td></td>
<td>P3 Design relates to the topography with minimal cut and fill.</td>
<td>S3 Cut or fill does not exceed 1m.</td>
<td>No cut or fill proposed</td>
</tr>
<tr>
<td></td>
<td>P4 Design preserves privacy and natural light access to neighbours.</td>
<td>S4 Length of second storey portion is not greater than 12m at less than 1.5m from a southern boundary.</td>
<td>Length of second storey 18.7m at 3.8m from the southern boundary</td>
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<td></td>
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<td>No - Design materially reduces natural light to</td>
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<tr>
<td>CONTROLS</td>
<td>PERFORMANCE REQUIREMENTS</td>
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<td>family/living room of adjoining premise to the south.</td>
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<td>No view loss occasioned by proposal</td>
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<td>P6 Design allows view sharing.</td>
<td></td>
<td></td>
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<tr>
<td>BUILDING SETBACKS</td>
<td>Front Setback</td>
<td>Front Setback</td>
<td>Front Setback</td>
</tr>
<tr>
<td></td>
<td>P1 Generally conforms with adjoining development or dominant setback along street.</td>
<td>S1 The average of adjoining dwelling or 6m setback where no adjoining dwelling.</td>
<td>No change proposed to existing front setback</td>
</tr>
<tr>
<td>Rear Setback</td>
<td></td>
<td>Rear Setback</td>
<td>Rear Setback</td>
</tr>
<tr>
<td></td>
<td>P2 Allow neighbours adequate access to natural light, view sharing and retains trees and vegetation.</td>
<td>S2 No closer than 4.5m.</td>
<td>No change proposed to existing rear setback, however locates first floor along the same setback line as ground floor with the first floor balcony in alignment with the ground floor verandah associated overlooking impacts.</td>
</tr>
<tr>
<td>Side Setback</td>
<td></td>
<td>Side Setbacks</td>
<td>Side Setbacks</td>
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<tr>
<td></td>
<td>P3 Allow occupants and neighbours adequate access to natural light, daylight and fresh air.</td>
<td>1.5m for any part of a building, two levels at that point.</td>
<td>First Floor Addition</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Yes - southern boundary (3.8m setback)</td>
</tr>
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<td></td>
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<td></td>
<td>No – northern</td>
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<tr>
<td>CONTROLS</td>
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<tr>
<td>VISUAL &amp; ACOUSTIC PRIVACY</td>
<td>P1 Overlooking neighbouring internal living areas and private open spaces is minimised.</td>
<td>S1 Windows have sill heights of 1.5m or more above floor level or fixed obscure glazing to any part of the window less than 1.5m above floor level.</td>
<td>Window locations on the adjoining properties not shown on the submitted survey. Condition 9 of the consent requires first floor windows to have a minimum sill height of 1.5m. Privacy screens are provided to the south-east and north-west elevations of the first floor rear verandah.</td>
</tr>
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<td></td>
<td></td>
<td>S2 Balconies provide adequate privacy for occupants.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>S1 Direct view into the private open space of adjoining dwelling is obscured or screened within 9m.</td>
<td></td>
</tr>
<tr>
<td>GARAGES, DRIVEWAYS &amp; CAR PARKING</td>
<td>1-2 bedroom 1 space 3 bedroom 2 spaces</td>
<td></td>
<td>No change to existing car parking situation: 2 spaces provided (1 garage space and 1 space on driveway)</td>
</tr>
</tbody>
</table>

9. SECTION 96 AMENDMENT

Under the provisions of Section 96 (2) of the Environmental Planning and Assessment Act, 1979, as amended, Council may only agree to a modification of an existing Development Consent if the following criteria have been complied with:

9.1 Substantially the same

As the application seeks approval of the same building design and configuration as originally proposed under Development Application No. 02/01099/GA, the proposal is substantially the same development.
9.2 Consideration of submissions

No submissions were received to either the original application or the modified application.

10. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

10.1 Floor Space Ratio, Overshadowing and Overlooking

The issue central to the application is the floor space ratio of the proposed development and the associated impacts of its increased bulk and scale. The performance requirement for floor area states:

“Building bulk must be compatible with surrounding built forms and must minimise adverse effects of bulk on neighbours, streets and public open space”.

Overlooking from the proposed first floor rear balcony and overshadowing of the adjoining property to the south-east are integral to the issue of the increased floor space resulting from the design of the second storey addition. The adverse effects of the proposed building bulk, that is overshadowing and overlooking, as well as its compatibility with surrounding built forms are examined below as part of the discussion on floor space.

The proposed floor space ratio as proposed in the modification to the consent (and as originally proposed) is 0.599:1, while the preferred solution for a site of this size (563m²) is 0.525:1, representing an increase of 41.77m² of gross floor area than permitted by the preferred solution. Condition 2 of the consent reduces the floor area by approximately 30.3m² and achieves a floor space ratio of 0.545:1 to bring the proposed development more in line with the preferred solution and to reduce the impacts associated with its increased bulk and scale.

Generous accommodation is provided within the proposed design in the form of lounge, dining and living areas on the ground floor amounting to a total internal area of approximately 63m², as well as a study, bathroom, kitchen and three bedrooms. The first floor level provides a further 71.6m² approximately of communal internal area in the form of a sitting room and a large family room (the latter comprising approximately 54m²) leading onto a rear balcony being 20m² in area. Additionally provided on the first floor are another three (3) bedrooms, a computer room, two (2) bathrooms and an ensuite. The resultant floor space ratio (0.599:1) is well in excess (approximately 42m²) of the preferred solution for this site (0.525:1) as contained in the Development Control Plan - Dwelling Houses and Attached Dual Occupancies.

The applicant argues in his latest submission, that the floor space is “desperately” needed for an extended family of seven people, with the proposed bulk and scale compatible with the neighbours. It should, however, be noted that Condition 2 of the consent, reducing the bulk and scale of the proposed first floor addition, does not
reduce the number of bedrooms, bathrooms or WC’s associated with the proposal and hence does not reduce the amount of accommodation as originally proposed (6 bedrooms). Instead, Condition 2 seeks to rationalise the amount of communal area proposed in the dwelling (lounge, living, family, sitting, computer rooms and a study) by allowing the internal reconfiguration of the first floor family room, computer room and sitting room. Please note, the first floor rear verandah is not deleted by any conditions of the consent, only relocated away from the rear boundary by a further 2m, with the added benefits of an increased size (20m² to 30m² approximately) and reduced overlooking impacts to the private open spaces (rear yards) of surrounding properties.

There are a number of options available in a reconfigured space as proposed by Condition 2 of the consent. For instance, retaining the number of study/computer rooms (2) as proposed in the dwelling and relocating the proposed computer room to the area occupied by the proposed sitting room, with a combined sitting and family room in an “L” shaped configuration opening onto a sizeable verandah approximately 30m² in area. Thus the family/sitting room achieves a very workable internal floor area of approximately 50m² extending onto a large outdoor area in the form of the rear verandah, whilst still reducing the bulk and scale as required by Condition 2 of the consent.

Alternatively, the proposed computer room may be relocated to the southern side of the first floor, to the rear of the proposed bathroom, opening onto the first floor rear verandah, thus creating a large rectangular combined sitting and family room that also opens onto the rear verandah. This solution achieves a very generous internal floor area for the first floor family/sitting room of approximately 56m² opening onto the large rear verandah.

Compatibility with surrounding built form

The objective for floor space requires that developments to be “not excessive in bulk and scale but compatible with the existing character of the locality”, while the performance requirement requires that “building bulk must be compatible with surrounding built forms and must minimise adverse effects of bulk on neighbours, streets and public open space”.

Surrounding development consists of a mixture of single storey and two storey dwellings, with the immediate neighbours in Adams Avenue being a modest single storey dwelling house to the south and a large imposing dual occupancy development to the north-west. Adjoining the subject site to the rear (north and north-east) are properties that front Prince Edward Street, being a single storey dwelling at 150 Prince Edward Street and a recently completed two storey dwelling at 152 Prince Edward Street (see Photo 5)
Photo No. 5 – rear of 152 Prince Edward Street
taken from rear of subject site

The dual occupancy development on the adjoining property to the north-west of the subject premises is similar in form and bulk as the proposed development and also has a rear first floor balcony although smaller in scale (see Photo No. 6). It is should be noted, however, that this building is positioned at an oblique angle on the adjoining allotment, thus alleviating to some extent the impacts of bulk and scale on the subject property. Also, this building was approved under previous controls on the 26th April, 1989 and as such cannot be relied on as forming a precedent.

Photo No. 6 – 17 Adams Avenue
taken from rear of subject site

A more reliable guide to an appropriate degree of variation to the preferred floor space ratio control and therefore compatibility with recent development approved under the current development control plan may be ascertained from the recent consents (post 15 February 2000) both within Adams Avenue and in the immediate vicinity to the rear in Prince Edward Street. The floor space ratios and degree of variation to the preferred solutions are summarised in the table below:-

<table>
<thead>
<tr>
<th>Address</th>
<th>DA No.</th>
<th>FSR (approved)</th>
<th>FSR (preferred)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject site–19 Adams Avenue</strong></td>
<td>1099/02/GA</td>
<td>0.545:1</td>
<td>0.525:1</td>
</tr>
<tr>
<td>25 Adams Avenue</td>
<td>01/0663/GB</td>
<td>0.52:1</td>
<td>0.5:1</td>
</tr>
<tr>
<td>178 Prince Edward Street (corner of Adams Avenue)</td>
<td>02/00355/GD</td>
<td>0.5:1</td>
<td>0.5:1</td>
</tr>
<tr>
<td>152 Prince Edward Street</td>
<td>00/0076/GA</td>
<td>0.519:1</td>
<td>0.509:1</td>
</tr>
<tr>
<td>146 Prince Edward Street</td>
<td>01/01104/GA</td>
<td>0.47:1</td>
<td>0.56:1</td>
</tr>
</tbody>
</table>
The development at 152 Prince Edward Street is of particular relevance. This recently completed two-storey dwelling was approved on the 4th December, 2000 and adjoins the subject site to the rear. It should be noted that this development breaks the building bulk to the rear (facing the subject site) by way of a part one and part two storey form (see Photo No. 5 above). As well it does not have the same degree of overlooking to surrounding private open space, as does the subject proposal as it does not have a first floor balcony and only has first floor bedroom windows facing the rear of the site.

Thus the development at 152 Prince Edward Street achieves a more compatible built form to surrounding development than the proposed development, as well as achieving a floor space ratio of 0.519:1 on a site of 585.7m² in area (having a preferred floor space ratio of 0.509:1). Thus the variation to the preferred solution is 5.73m² or 1.9%. In contrast, the subject Section 96 application seeks a floor space ratio of 0.599:1 on a site, similar in area (563m²), having a preferred floor space ratio 0.525:1. The variation to the preferred solution by the subject proposal is 41.77m² or 14.1%. The consent, as conditioned, achieves a floor space ratio of 0.545:1 with the variation to the preferred solution being 11.47m² or 3.8%.

It is apparent that the proposed development as sought by the Section 96 application, has been designed in accordance with the bulk and form of the adjacent development to the north-west at 17 Adams Avenue rather than recently approved surrounding development. It is therefore considered that the proposal is incompatible with the surrounding built form and is excessive in regard to the amount and degree of variation to the preferred solution. The conditional consent achieves a more consistent outcome both with the preferred floor space ratio and the recent surrounding built form, especially the adjacent recently constructed development to the rear, approved under the current development control plan.

Overlooking

Overlooking from the proposed first floor rear balcony to the private open space of surrounding properties, is an issue of concern arising from the application. The objective for visual and acoustic privacy seeks to ensure that “new buildings and additions meet occupants’ and neighbours’ requirements for visual and acoustic privacy”, while the relevant performance requirement for visual and acoustic privacy states:-

- “Overlooking of internal living areas and private open spaces of residential development is minimised through appropriate building layout, location and design of windows and balconies and, where necessary, separation, screening devices and landscaping.”

Additionally, the objectives for building height seek to ensure that “buildings preserve privacy and natural light access for neighbouring residents” and that “buildings enhance the predominant neighbourhood and street character.

The proposed new first floor family room located at the rear of the dwelling opens directly onto the proposed first floor rear verandah, 10.1m in width and 2m in depth, having a total area of 20.2m². This proposed verandah appears larger than the first
floor balcony to the rear of dual occupancy development at 17 Adams Avenue to the north-west (see Photo No. 6 above) and the southern side/rear first floor balcony existing at 23 Adams Avenue (see Photo No. 7). These appear to be the only rear balconies in the nearby vicinity. Therefore given that other surrounding development in the vicinity does not have first floor rear balconies, it is considered that the proposed large first floor veranda running across the full width of the dwelling house would not enhance the predominant neighbourhood character in the immediate vicinity and therefore is contrary to the above-stated objective for building height.

Traditionally, communal areas are located on a dwelling’s ground floor, with bedrooms located on the first floor level to minimise impacts of overlooking and maintain the privacy to private open spaces of surrounding properties. Recently the use of first floor areas as the main living areas have been sought where a view may be obtained by their elevation. This may be acceptable where the view gained from the balcony does not result in significant overlooking issue, for instance, where the private open spaces of adjoining properties are well screened by landscaping.

Given the two storey development to the rear of the site and the potential for a two storey development at 150 Prince Edward Street, it is considered that no significant views could be gained by having the family room and verandah located at the rear of the first floor. Further there will be a significant level of overlooking to the private open spaces of adjoining properties as can seen by Photos Nos. 5 and 7 (above) and 8 (below), with little opportunity to address this issue by landscaping given the existing pool in the rear yard.

As well, the proposed family room is significantly larger than any other communal area within the proposed development and leads onto the verandah by way of two
sets of sliding glass doors. The family room is also proposed to be used in conjunction with a computer room and a sitting room on the same first floor level. This configuration concentrates activities within this area, thereby increasing the frequency and intensity of use of the family room and the associated verandah, resulting in increased opportunities for overlooking of the rear yards of the immediately surrounding properties. This is considered an undesirable situation as it intrudes on the privacy of adjoining neighbours. Therefore it is considered that the proposed building layout and location of the rear first floor verandah fails to meet the performance requirement for visual and acoustic privacy as stated above.

Overshadowing

By locating the first floor addition further away from the rear boundary (as conditioned) not only reduces overlooking but it also minimises (although not entirely removes) the shadow impact to the family room of the neighbouring premises to the south.

The preferred solutions in relation to solar access require that north facing windows of neighbouring dwellings receive at least 3 hours of sunlight over at least part of its area between 9.00am and 3.00pm on 21 June.

The proposed first floor addition will detrimentally effect the solar access to the family/living room on the north-western side of 21 Adams Avenue such that this window will not receive 3 hours of sunlight over at least part of its area between 9.00am and 3.00pm on 21 June. Additionally solar access will also be affected to the north-eastern (rear) elevation of this dwelling and the principal outdoor recreation area by the proposed lengthy and bulky first floor addition.

No articulation or modulation has been provided in the proposed design to alleviate the bulk of the second storey addition, instead it has been built straight up from the existing ground floor in the form of a brick box. The preferred solution for unarticulated wall length along a southern boundary is 12m (albeit with a setback of 1.5m), while the proposed unarticulated length of the second storey addition is 20.3m (including front and rear first floor roofed verandahs) and although it does so with a setback of 3.8m, this is not sufficient to alleviate the shadow impacts nor the visual bulk of the proposal.

The conditional consent seeks to achieve a more preferable outcome for the proposed development, by reducing the bulk and scale with side wall lengths of approximately 17.4m. While the conditional consent does not achieve the preferred solution in regard to solar access for 21 Adams Avenue, it does, however, provide a more equitable solution both for the existing dwelling at 21 Adams Avenue (and also for any future development on this site) by minimising the shadow impact. Therefore it is recommended that Condition 2 of the consent should not be deleted.

11. CONCLUSION

The consent, as conditioned, is considered a reasonable compromise both in regard to providing generous accommodation for the applicant’s family and providing a development reasonably compatible with surrounding built form, with its impact to
surrounding properties minimised to an acceptable level, particularly those to 21 Adams Avenue. Accordingly, it is considered that the Section 96 application should be refused and Condition 2 of the consent should stand.

RECOMMENDATION:

THAT Council as the responsible authority refuse its consent under Section 96 of the Environmental Planning and Assessment Act 1979 (as amended) to modify Development Consent No. 1099/02/GA for alterations and first floor addition on property at 19 Adams Avenue, Malabar for the following reasons:-

1. The modification results in a development excessive in bulk and scale, well in excess of the preferred solution for the maximum floor space ratio for the site. The modification also fails to achieve the performance requirement for floor area, as it is incompatible with recently approved surrounding built form in the immediate vicinity.

2. The modification exacerbates the impact arising from excessive bulk and scale, being overlooking and overshadowing and accordingly fails to meet the performance requirement for floor area.

3. The modification does not minimise loss of solar access to 21 Adams Avenue and therefore does not meet the performance requirement for ecologically sustainable development.

4. The modification does not minimise or preserve privacy to neighbouring properties and therefore does not meet the performance requirements for height, visual and acoustic privacy.

ATTACHMENT/S:

A4 reduced plan.
Delegated report dated 23/1/03

SIMA TRUUVERT  DAVID PIRIE
ACTING DIRECTOR PLANNING & ASSESSMENT OFFICER
COMMUNITY DEVELOPMENT
Delegated Report

PROPERTY: 19 Adams Avenue Malabar  
WARD: South

FILE REF: D/1099/2002

APPLICANT: Peta E Shaw

OWNER: Peta E Shaw and Gregor D Shaw

PROPOSAL: Construction of second storey to existing single dwelling

VALUE OF WORK: $170,000.00

BCA CLASSIFICATION: 1a

DATE SUBMITTED: 22 November 2002

ADVERTISING: 29 November 2002 to 13 December 2002

AUTHOR: Willana Associates

1. PROPOSAL:

The applicant is seeking approval to: construct a first floor level above the existing dwelling; construct two balconies; remove several windows at the ground floor level; and provide a rendered finish to the building.

2. DESCRIPTION OF LOCALITY AND SITE:

The subject property is located on the eastern side of Adams Avenue, south of Rubie Reserve in Malabar. The immediate locality comprises a mixture of 1 and 2 storey dwelling houses.

The site comprises a single irregular shaped allotment with 15.55m frontage to Adams Avenue and a total site area of approximately 563m². Existing on the site is a single storey freestanding dwelling house with a single garage attached to the southern side. A swimming pool is situated at the south-eastern corner of the property.

3. RELEVANT HISTORY:

The following Development Consents have been previously issued on the subject property:-
90/00898/BZ – for alterations and additions to the dwelling
98/00647/BK – for in-ground swimming pool

4. ZONING AND STATUTORY CONTROLS:

The site is zoned Residential 2(a) under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council's consent.

The proposal has been assessed in accordance with the following controls and is consistent with the provisions of these controls:-

- Randwick Local Environmental Plan 1998.
- Environmental Planning and Assessment Act 1979 (as amended)
- Building Code of Australia

5. REFERRALS:

Conditions of consent have been recommended to: ensure adequate drainage is provided; satisfy the provisions of the EP&A Act 1979 and Regulations; maintain health, safety and amenity during construction; ensure structural adequacy; and ensure reasonable levels of fire safety.

6. POLICY CONTROLS:

The following Council policy controls apply to the proposed development.

6.1 Dwelling Houses and Attached Dual Occupancy DCP (2000)

4.1 Landscaping & Open Space

The proposal maintains 54% of the site as landscaped area, well over the required 40%. Much of this will be soft (permeable) landscaping, well over the amount required. The proposed private open space area is larger than the minimum 252m² required and is considered to be usable.

4.2 Floor Area

The site area of 563m² results in a maximum allowable floor space ratio (FSR) of 0.53:1. The proposed development would double the current floor area, resulting in an overall FSR of 0.6:1. This represents approximately 42m² in additional floor area than that permitted under SI of the Preferred Solutions.

The applicant’s statement of environmental effects has addressed this substantial variation, only in so far as providing a general statement that “the proposal is compatible with the surrounding built forms and its slight increase in floor area will not have adverse effects on the adjoining premises, the streetscape or public open space”.

The following Council policy controls apply to the proposed development.

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The applicant’s statement of environmental effects has addressed this substantial variation, only in so far as providing a general statement that “the proposal is compatible with the surrounding built forms and its slight increase in floor area will not have adverse effects on the adjoining premises, the streetscape or public open space”.
The Performance Requirement P1 related to the preferred solution states that “building bulk must be compatible with surrounding built forms and must minimize adverse effects of bulk on neighbours, streets and private open space”.

The proposed façade and presentation to the street is considered to be compatible with others in the street and locality, and this would likely remain the same in a compliant scheme. The proposed presentation of the second storey to the side adjoining properties is dominating and would have an unreasonable negative visual impact. This is reflected by the further non-compliance with the maximum 12m-wall length. The proposal presents a 16.7m long, two-storey wall with no articulation on both side elevations. The overbearing nature of these walls would be further exaggerated on the northern side where it is within the 1.5m setback requirement.

The orientation of the site is such that the large structure will not have any shadow impact on No. 17. The submitted shadow diagrams are inadequate and do not account for the shadow of the balcony at the rear of the proposed second storey. This balcony, coupled with the excessive bulk, would cause the north facing living areas of No. 21 to receive less than the required three hours of direct sunlight in mid winter.

The proposed second storey level provides additional bedrooms, bathrooms, a sitting room, a computer room and a large family room. There are significant privacy implications associated with the location of the family room at the first floor level and a large balcony directly off this living area. These have been treated to some extent by the inclusion of privacy screens at the end of the balcony and placing a high sill on one of the family room windows. However, direct overlooking of adjoining private areas would still occur from the balcony to the adjoining private open spaces, particularly to the northern side, as the balcony is setback only 1.3m from this side. Loss of privacy would also be caused by the large family room window on the northern elevation, the smaller family room window on the southern elevation, and the large sitting room window. While these privacy impacts can be overcome with measures such as strategic screen tree plantings and raising sill heights, the numerous areas of concern indicate that the impacts are increased with the additional floor area.

The proposal will result in a six-bedroom house with kitchen, dining, study and computer room, as well as separate lounge, living, sitting and family rooms. There is considered to be more than ample living areas for the number of bedrooms, and the family room has an excessive floor area of 55m2 (not including walls).

The proposal is clearly not compliant with the Performance Requirement P1 for floor area and building bulk, as well as the Preferred Solution S1. The scheme has significant unwarranted impacts and could not be approved in its current form. However, the layout is relatively simple and as such amendments could be imposed by conditions of consent to provide an appropriate form that is closer to the preferred floor space ratio and complies with the performance requirement.

The recommended amendments are as follows:

- The second storey level being reduced at the rear by relocating the entire rear wall of this storey approximately three (3) metres to the southwest so that it is above
the ground floor wall between the ‘kitchen’ and ‘living’, and ‘study’ and ‘bath’.
(The family room, computer room and sitting room may be internally
reconfigured, relocated or removed within the reduced first floor level).

• The pitched roof form being reduced at the rear by approximately three (3) metres
so that it sits above the relocated rear wall in a similar fashion to that in the
submitted plans.

• The balcony on the rear elevation shall be deleted from the proposed position and
relocated to the 3m wide (approximately) section above the ground floor ‘living’
and ‘bath’ at the rear of the dwelling, that the family room was to occupy in the
submitted plans.

• The awning/pergola over the rear balcony being relocated by approximately three
(3) metres to cover the relocated balcony. (The awning depth may be increased to
cover the 3m wide (approximately) balcony).

• Permanent, durable privacy screens with a minimum density of 85%, and to a
minimum height of 1.8m, being provided on the north and south sides of the rear
balcony.

• Posts and privacy screens on the rear balcony being set back a minimum of
300mm from the north and south walls of the house to create articulation.

• First floor windows to living areas (including the family room, sitting room and
computer room) shall be limited to a total of four (4) on the north and south
elevations.

• First floor windows on the north and south elevations to the family room and
sitting room shall have a minimum sill height of 1500mm above floor level.

• First floor windows on the north and south elevations shall be maintained at the
proposed widths and shall remain in a similar location to that indicated in the
submitted plans.

The proposed changes will result in:

• A development with an FSR of 0.55:1, only 10m$^2$ over the requirement.
• A second storey wall length of approximately 13.8m, similar to the 12m
requirement and sufficient to reduce visual impact.
• Articulation, reduced bulk and an appropriate visual appearance on side
elevations.
• 3 hours of direct sunlight being maintained to the rear of the adjoining property in
mid winter.
• A reasonable level of privacy being maintained.

4.3 Height, Form and Materials

The proposed additions comply with the maximum wall height for the two-storey
component. As discussed earlier in this report, the proposal provides a two-storey
component to the limit of the existing building footprint, and so does not comply
with the maximum 3.5m height limit at the rear. The recommended changes would
enable the development to comply.

The proposal does not involve any excavation other than for the verandah footings.
The proposed second storey portion of the dwelling would have a depth of 16.7m without any articulation. This is substantially greater than the maximum 12m depth 1.5m from the boundary and would result in an overbearing appearance to adjoining properties. The changes recommended earlier in this report would provide a more appropriate appearance.

4.4 Building Setbacks

The existing front setback of between 6.8m and 8.8m to the front verandah is maintained. The proposed rear setback is approximately 10m and complies with Preferred Solution S2.

The proposed setback on the northern side does not comply the requirements set out in S3 of the Preferred Solutions, encroaching by 200mm. This is caused by the placement of the second storey wall over the existing ground floor wall. Such a variation may be reasonable where there is no increased impact. As discussed earlier in this report, the visual impact on this side is significant. Recommended changes will reduce this impact and enable the encroachment to be acceptable.

4.5 Visual and Acoustic Privacy

Large living areas are proposed at the first floor, as well as the ground floor level, and the number and size of windows would cause a loss of privacy. The recommended changes detailed earlier in this report will reduce the visual and noise impacts to adjoining properties.

The balcony will permit overlooking into adjoining private open spaces. Privacy could easily be maintained with the planting of shrubs to minimum height of 4m at maturity, on side boundaries, immediately behind the ground floor wall of the house. This should be required as a condition of any consent.

4.6 Safety and Security

The proposal will maintain casual surveillance of the street. This complies with P1 of the Performance Requirements.

4.7 Garages, Carports And Driveways

Two car parking spaces are required under the Councils car parking DCP for this large dwelling. The garage at the side of the dwelling currently provides one space behind the building line, occupying less than 21% of the site width. The plans designate a second car space on the driveway, which cannot be included in any calculations as it is in front of the building line. The dimensions of the garaged space are compliant with Preferred Solution S1.

3.1 Solar Access and Energy Efficiency

The proposed development meets the Performance Requirements under 3.1 Solar Access and Efficiency. The new living areas face north and will receive sunlight throughout the day. As discussed earlier the excessive bulk proposed would unduly reduce the sunlight access of the adjoining property to the south.

A NatHERS energy efficient certificate from an accredited certifier as recommended in the Preferred Solutions has not been submitted with the development application.
6.2 Parking DCP (1998)

Two car parking spaces are required under Section 2.3 of Council's car parking DCP for this large dwelling. The current three-bedroom dwelling requires two car parking spaces under Council’s car parking DCP. The garage at the side of the dwelling currently provides one space behind the building line. The proposal increases the capacity of the dwelling, doubling the number of bedrooms from three to six. It is considered reasonable that the required parking can be provided within the garage and upon the existing driveway.

7. NOTIFICATION AND SUBMISSIONS:

The proposal was notified to surrounding property owners on 29 November 2002. No submissions have been received in response to this notification.

8. SECTION 79C ASSESSMENT:

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

9. CONCLUSION:

The proposal has several non-compliances and would have a significant visual, privacy and overshadowing impact on adjoining residences, as well as an impact on local car parking. It should not be approved in its current form. However, the layout is relatively simple and as such amendments could easily be imposed by conditions of consent to provide an appropriate form.

10. RECOMMENDATION:

THAT Council's Team Leader/Manager Development Assessment under delegated authority from the General Manager, as the consent authority, grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 to Development Application No. 1099/02 for permission to construct a two storey addition to the existing dwelling at 19 Adams Avenue Malabar subject to the following conditions:-

REFERENCED PLANS: (Assessment Officer)

1. The development must be implemented substantially in accordance with the plans numbered 55/02, dated 19 November 2002 and received by Council on 22 November 2002, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

   The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:
2. The second storey level being reduced at the rear by relocating the entire rear wall of this storey approximately three (3) metres to the southwest so that it is above the ground floor wall between the ‘kitchen’ and ‘living’, and ‘study’ and ‘bath’. (The family room, computer room and sitting room may be internally reconfigured, relocated or removed within the within the reduced first floor level).

3. The pitched roof form being reduced at the rear by approximately three (3) metres so that it sits above the relocated rear wall in a similar fashion to that in the submitted plans.

4. The balcony on the rear elevation shall be deleted from the proposed position and relocated to the 3m wide (approximately) section above the ground floor ‘living’ and ‘bath’ at the rear of the dwelling, that the family room was to occupy in the submitted plans.

5. The awning/pergola over the first floor rear balcony being relocated to cover the relocated balcony in a similar fashion to that in the submitted plans. (The awning depth may be increased to cover the 3m wide (approximately) balcony).

6. Permanent, durable privacy screens with a minimum density of 85%, and to a minimum height of 1.8m, being provided on the north and south sides of the rear balcony.

7. Posts and privacy screens on the rear balcony being set back a minimum of 300mm from the north and south walls of the house to create articulation.

8. First floor windows to living areas (including the family room, sitting room and computer room) shall be limited to a total of four (4) on the north and south elevations.

9. First floor windows on the north and south elevations to the family room and sitting room shall have a minimum sill height of 1500mm above finished floor level.

10. First floor windows on the north and south elevations shall be maintained at the proposed widths and shall remain in a similar location to that indicated in the submitted plans.

11. Two (2) evergreen species of tree/shrub, to a mature height of at least 4m, being planted immediately to the behind the rear wall of the dwelling, one adjacent to the northern side boundary and one adjacent to the southern side boundary. These are to be maintained to prevent overlooking from the rear balcony into adjacent yards.

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

12. Surface water/stormwater must be drained and discharged to the street gutter or suitable absorption pit and details are to be included in the construction certificate details for development.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council’s Director of Planning and Environment prior to commencement of works.
The following conditions are applied to ensure that the development satisfies the provisions of the *Environmental Planning and Assessment Act 1979* and Regulations:

13. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

14. In accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*, it is a prescribed condition, that in the case of a residential building work, a contract of insurance must be obtained and in force, in accordance with the requirements of the *Home Building Act 1989*.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principle Certifying Authority (PCA):

- Has been informed in writing of the licensee’s name and contractor number; and
- Is satisfied that the licenses has complied with the insurance requirements of Part 6 of the *Home Building Act 1989*, or

Where the work is to be done by any other person (i.e. an owner builder), excavation or building work must not be carried out unless the Principle Certifying Authority (PCA):

- Has been informed of the person’s name and owner-builder permit number; or
- Has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed $3,000.

Details of the builder and compliance with the provisions of the *Home Building Act 1989* are to be submitted to Council prior to the commencement of works, on the notice of appointment of the PCA / Intention to commence building work.

15. A sign must be erected on the site in a prominent, visible position, prior to commencing any demolition, excavation or building works, stating that ‘unauthorised entry to the site is prohibited’ and showing the name of the person in charge of the work site and a telephone number at which the person may be contacted outside working hours, in accordance with clause 78H of the Environmental Planning and Assessment Regulation 1994.

In the case of a residential building work, the sign is also required to detail the licence number of the building contractor or permit number of the owner-builder, in accordance with the *Home Building Act, 1989 and Regulations*.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

16. Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the

17. Prior to the commencement of any building work, a principal certifying authority must be appointed and Council is to be notified accordingly and, at least 2 days notice of the intention to commence building work must be given to Council, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

18. A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be available to the Council officers upon request.

19. The building works are to be inspected by the principal certifying authority (or other suitably qualified person on behalf of the applicant) to monitor compliance with Council’s approval and the relevant standards of construction.

   Documentary evidence of compliance with Council’s approval and relevant standards of construction, is to be maintained by the principal certifying authority.

20. Building and demolition works must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive, between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and public holidays, except with the specific written authorization of Council’s Manager of Environmental Health & Building Services.

21. Building materials, sand, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time.

22. Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written consent of the Council, unless exempt under Councils Local Approvals Policy.

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

23. A Certificate of Adequacy supplied by a professional engineer shall be submitted to the certifying authority (and the Council, if the Council is not the certifying authority) prior to a construction certificate being issued for the development, certifying the structural adequacy of the existing structure to support the additional storey.

   The following conditions are applied to ensure that reasonable levels of fire safety are provided in the building:

23. Smoke alarms are required to be installed in each Class 1 building or dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.

   Smoke alarms must comply with AS 3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.
The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located ‘dead-air-spaces’, in the corner junction of walls and ceilings between exposed rafters/ joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the B.C.A. – Housing Provisions.

Details of compliance with the provisions of the Building Code of Australia must be included in the plans/specification for the construction certificate.

Willana Associates
ASSESSMENT PLANNER.

DATE: 7 January 2003

Having considered the report of the Assessment Officer and after having taken into account Council's Local Environmental Policies and Codes I determine that the application be in accordance with the recommendation above.

I have exercised my delegation of authority, in accordance with the instrument of delegation dated 6 March 2003, to determine this application.

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TEAM LEADER

DATE:........................................

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