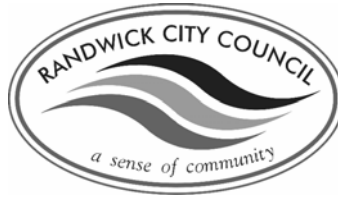


Administrative Centre
30 Frances St
Randwick 2031
Tel: 02 9399 0999
Fax 02 9319 1510
DX 4121 Maroubra Junction
general.manager@randwick.nsw.gov.au



INCORPORATED
AS A MUNICIPALITY
22 FEBRUARY 1859
PROCLAIMED AS
A CITY JULY 1990

18 September 2008

ORDINARY COUNCIL MEETING

NOTICE IS HEREBY GIVEN THAT AN ORDINARY COUNCIL MEETING OF THE COUNCIL OF THE CITY OF RANDWICK WILL BE HELD IN THE COUNCIL CHAMBER, TOWN HALL, 90 AVOCA STREET, RANDWICK, ON TUESDAY, 18TH APRIL 2006 AT 6:00 PM

- 1 Council Prayer**
- 2 Apologies**
- 3 Minutes**

CONFIRMATION OF THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON TUESDAY, 28TH MARCH, 2006.

- 4 Declaration of Pecuniary & Non-Pecuniary Interests**
- 5 Addresses to the Council by the Public**
- 6 Mayoral Minutes**
- 6.1 MAYOR'S MINUTE 25/2006 - WAIVING OF FEES - BENEVOLENT SOCIETY 2
- 7 General Manager's Reports**
- 7.1 GENERAL MANAGER'S REPORT 5/2006 - DRAFT MANAGEMENT PLAN 2006-09. 4
- 8 Director City Services' Reports**
- 8.1 DIRECTOR, CITY SERVICES' REPORT 24/2006 - FERGUSON STREET, MAROUBRA. LANE WIDENING EXEMPTION TO SUBDIVISION CODE REQUIREMENTS. 10

9	Director Governance & Financial Services' Reports	
9.1	DIRECTOR, GOVERNANCE & FINANCIAL SERVICES' REPORT 23/2006 - INTERNAL REPORTING SYSTEM - PROTECTED DISCLOSURES ACT.	18
9.2	DIRECTOR, GOVERNANCE & FINANCIAL SERVICES' REPORT 24/2006 - ADOPTION OF FEES & CHARGES FOR HIRE OF BUNDOCK STREET COMMUNITY CENTRE.	20
10	Director City Planning Reports	
10.1	DIRECTOR, CITY PLANNING REPORT 28/2006 - 2 ALBERT STREET & 155-161 AVOCA STREET, RANDWICK.	24
10.2	DIRECTOR, CITY PLANNING REPORT 29/2006 - 8-10 WOOD STREET, RANDWICK.	60
11	Petitions	
12	Motions Pursuant to Notice	
12.1	Motion By Councillor Tracey – New Childcare Centres Policy.	106
13	Urgent Business	
14	Confidential Reports	
14.1	CONFIDENTIAL GENERAL MANAGER'S REPORT 06/2006 - DRAFT MANAGEMENT PLAN 2006-09 - CONFIDENTIAL FEES & CHARGES 2006-07.	108
15	Committee-of-the-Whole	
16	Report of Committee-of-the-Whole	
17	Notice of Rescission Motions	

.....
GENERAL MANAGER



MAYOR'S MINUTE 25/2006

SUBJECT:	WAIVING OF FEES - BENEVOLENT SOCIETY
-----------------	--------------------------------------

DATE:	3 April, 2006	FILE NO:	F2004/07842
--------------	---------------	-----------------	-------------

REPORT BY: MAYOR

INTRODUCTION:

Council has received a request for assistance from The Benevolent Society Centre for Children, who are planning a community festival at Coral Sea Park on Saturday, 27 May, 2006.

ISSUES:

The festival is being organised by a group of community members as part of the Eastern Sydney Community Leadership program that is federally funded under the Stronger Families, Stronger Communities initiative and auspiced by the Benevolent Society. The festival is a community event aimed at children in the district and to showcase local talent, community food and commercial stalls, rides and supervised children's activities.

An assessment of the applicable fees is as follows:

Installation and dismantling of portable stage:	\$1,200.00
Audio Equipment	\$2,500.00
Generators	\$1,450.00
Approval Fee	\$ 420.00
Food Stalls (5)	\$ 450.00
Supply and removal of 12 extra bins	\$ 660.00
Additional Toilet Cleaning	\$ 385.00
Provision of portable toilets	\$ 950.00

TOTAL: \$8,015.00

FINANCIAL IMPACT STATEMENT:

Should Council accept the recommendation, the financial implication to Council is \$8,015.00.

At the 14 March 2006 administration & Finance Committee Meeting it was resolved that *“an additional vote of expenditure to fund the difference between Councillors’ donations and the budget amount in the Councillors’ contingency fund 2005/2006 be included in the next quarterly budget review.”* The March budget review is to be considered at the 30 May 2006 Council Meeting.

CONCLUSION:

This community festival is considered a worthwhile local community event to provide a full days entertainment not only for local children but for families and friends.

RECOMMENDATION:

That:

- a) Council vote \$8,015.00 to cover the fees associated with the community festival to be held on Saturday, 27 May, 2006 and that these funds be allocated from the 2005/06 Contingency Fund budget.
- b) the event organiser undertake to appropriately and prominently acknowledge and promote Council’s contribution, prior to and during the event (by Council logo being prominently displayed on all promotional materials such as flyers, newspaper advertisements, etc, Council being mentioned as sponsor in any radio advertisements, sponsorship acknowledged in all local press and publicity).
- c) the Mayor or the Mayor’s representative be given the opportunity to address the event on behalf of Council.

ATTACHMENT/S:

Nil



.....
TED SENG
MAYOR



GENERAL MANAGER'S REPORT 5/2006

SUBJECT:	DRAFT MANAGEMENT PLAN 2006-09
-----------------	-------------------------------

DATE:	3 April, 2006	FILE NO:	F2006/ 00161
--------------	---------------	-----------------	--------------

REPORT BY: GENERAL MANAGER

INTRODUCTION:

Section 402 of the Local Government Act 1993 requires each council to prepare a draft management plan each year, setting out:

- (a) The Council's activities for at least the next 3 years, and
- (b) The Council's revenue policy for the next year.

The Act specifies in more detail the information that is to be included in the draft management plan:

s403 Contents of draft management plan with respect to council's work and activities

- (1) The draft management plan must contain the following statements with respect to the council's activities for the period to which it relates:
 - a statement of the principal activities that the council proposes to conduct
 - a statement of the objectives and performance targets for each of its principal activities
 - a statement of the means by which the council proposes to achieve these targets
 - a statement of the manner in which the council proposes to assess its performance in respect of each of its principal activities
 - statements with respect to such other matters as may be prescribed by the regulations.
- (2) The statement of principal activities must include the following particulars:
 - capital works projects to be carried out by the council
 - services to be provided by the council
 - asset replacement programs to be implemented by the council
 - sales of assets to be conducted by the council

- activities of a business or commercial nature to be undertaken by the council
- human resource activities (such as training programs) to be undertaken by the council
- activities to properly manage, develop, protect, restore, enhance and conserve the environment in a manner that is consistent with and promotes the principles of ecologically sustainable development
- activities in response to, and to address priorities identified in, the council's current comprehensive report as to the state of the environment and any other relevant reports
- programs to be undertaken by the council to implement its equal employment opportunity management plan.

s404 Contents of draft management plan with respect to council's revenue policy

- (1) A draft management plan must include the following statements with respect to the council's revenue policy for the next year, subject to the regulations:
 - a statement containing a detailed estimate of the council's income and expenditure
 - a statement with respect to each ordinary rate and each special rate proposed to be levied
 - a statement with respect to each charge proposed to be levied
 - a statement of the types of fees proposed to be charged by the council and the amounts of each such fee
 - a statement of the council's pricing policy with respect to the goods and services provided by it
 - a statement of the amounts or rates proposed to be charged for the carrying out by the council of work on private land
 - a statement of the amounts of any proposed borrowings (other than internal borrowing), the sources from which they are proposed to be borrowed and the means by which they are proposed to be secured
 - statements with respect to such other matters as may be prescribed by the regulations.
- (2) The statement with respect to an ordinary or special rate proposed to be levied must include the following particulars:
 - the ad valorem amount (the amount in the dollar) of the rate
 - whether the rate is to have a base amount and, if so
 - the amount in dollars of the base amount, and
 - the percentage, in conformity with section 500, of the total amount payable by the levying of the rate, or, in the case of the rate, the rate for the category or sub-category concerned of the ordinary rate that the levying of the base amount will produce
 - the estimated yield of the rate
 - in the case of a special rate-the purpose for which the rate is to be levied
 - the categories or sub-categories of land in respect of which the council proposes to levy the rate.
- (3) The statement with respect to each charge proposed to be levied must include the following particulars:

- the amount or rate per unit of the charge
 - the differing amounts for the charge, if relevant
 - the minimum amount or amounts of the charge, if relevant
 - the estimated yield of the charge.
- (4) A draft management plan must include a statement containing a general estimate of the council's income and expenditure for the second and subsequent years for which the draft management plan is prepared.
- (5) The statement of fees and the statement of the pricing policy need not include information which could confer a commercial advantage on a competitor of the Council.

s405 Public notice of draft management plan

- (1) A council must give public notice of its draft management plan
- (2) The period of public exhibition must not be less than 28 days
- (3) The public notice must specify that submissions may be made to the council at any time during the period of public exhibition

s406 Adoption of management plan

Before the end of each year, a council must adopt a management plan for the following year after it has been prepared and exhibited. In deciding on the final plan to be adopted, a council must take into consideration any submissions that have been made concerning the draft management plan prepared and exhibited.

ISSUES:

Provided under separate cover is the Draft Management Plan including the five-year projections, a detailed Draft estimates of income and expenditure and a copy of the Draft Statement of fees, charges and pricing policy.

The Draft Management Plan describes the strategic direction of Council and provides a management tool for its achievement. It outlines the planning process applied in developing the framework for the management plan which is focused on the outcomes that Council is aiming to achieve and the major strategies that will be implemented to support the achievement of these outcomes.

The Draft Management Plan also includes other key plans and strategies such as The Randwick City Plan, the EEO Plan and the Financial Plan. It also incorporates the five-year financial projections that will underlie our planning.

The Budget for 2006/07 proposes a balanced and sustainable budget. It is proposed that there will be an increase in the net operating surplus and increased spending on core works and activities. The key service standard levels relating to the maintenance of our parks and gardens and the cleanliness of our public places and beaches have been increased and this will deliver better services and facilities to the community.

In accordance with the Code of Accounting Practice and Financial Reporting (April 2005) and in accordance with the requirements of AAS27, the allocation of overheads to functions and activities have been adhered to.

Expenses that are directly attributable to each function have been allocated in accordance with AAS 27 paragraph 79 (b).

The Draft Budget is based on the permissible rate increase of 3.6%. The revenue raised from rates and charges represent about 56% of Council's operating revenue.

The documents attached to this report provide detailed information and projections of the source and application of funds, operating result from ordinary activities, and the estimated balances of financial reserves.

RATES TO BE LEVIED

Council's current rating structure consists of an 'ad valorem' amount in accordance with s.497 subject to minimum amounts in accordance with s.548 of the Local Government Act NSW 1993. Land within the City of Randwick is categorised as either Residential or Business for rating purposes under the Local Government Act 1993.

Council has based the Draft Budget on the permissible increase in rates income of 3.6%. It is proposed to levy an *ad valorem* rate of 0.22556 cents in the dollar on all parcels of rateable residential land (subject to a minimum charge of \$529.30), and an *ad valorem* rate of 0.8822 cents in the dollar on all rateable business land (subject to a minimum charge of \$853.00) for 2006/07.

The following table sets out details of the proposed rates levy:

Rate Description	Rate	No. of Properties	Rate Revenue
Residential - Ad Valorem	0.22556	22,470	\$25,040,530
Residential - Minimum	\$529.30	22,855	\$12,097,151
Business - Ad Valorem	0.8822	1,578	\$9,395,691
Business - Minimum	\$853.00	451	\$384,703
		47,354	\$46,918,075

DOMESTIC WASTE MANAGEMENT CHARGE

Under S.496 of the *Local Government Act 1993*, Council must make and levy an annual charge for providing domestic waste management services. Under S.504 of the Act, income from the charge must not exceed the reasonable cost to Council of providing those services. The domestic waste management charge is proposed to increase from \$281.60 to \$294.60 for each residential occupancy.

The small increase will cover the costs of the increasing use of the on-call clean up service, the expanding green waste service and CPI adjustments.

ENVIRONMENTAL LEVY

In 2004/05 the Minister approved a special increase to General Income of 14.73%. This increase incorporated an environmental levy equivalent to 6% of the 2004/05 rate increase, to fund a comprehensive range of environmental programs and initiatives with the aim of achieving a substantial enhancement of Randwick's environment. The environmental funding was approved for a 5 year period and is included in the 2006/07 Budget.

In 2006/2007 new projects funded by this program will include:

- Completion of further sections of the Coastal walkway
- Dune protection at Yarra Bay and Frenchman's Bay
- Installation of more Gross Pollutant Traps to prevent rubbish entering and polluting our marine waters
- A comprehensive Water Conservation strategy
- Energy and greenhouse reduction as part of the Cities for Climate Protection Program
- Education and learning activities for local schools and the community

INTEREST CHARGES

The Minister has not determined the maximum interest for 2006/2007. It has been estimated that where rates or charges are unpaid after they become due and payable, interest shall accrue on a daily basis at the rate of 9% per cent per annum simple interest in accordance with S.566 of the Local Government Act 1993.

FINANCIAL IMPACT STATEMENT:

Council is in a strong financial position and with the implementation of the Long Term Financial Plan, the Council will be well placed and financially sustainable in the future. The Draft Budget is balanced. The operating surplus is not being funded by any sale of property.

CONCLUSION:

The draft management plan and the associated documents are now tabled for Council's consideration. Following the adoption of these drafts, the Draft Management Plan must be placed on public exhibition for a minimum of 28 days.

RECOMMENDATION:

That:

- (a) the Draft Management Plan be placed on public exhibition for not less than 28 days, from 19 April 2006 to 19 May 2006, inviting submissions from the public;

- (b) at the conclusion of the period of public exhibition a meeting of Council is held to consider any submissions made concerning the Draft Plan, and after taking into consideration such matters, as it considers relevant, Council adopt the Management Plan; and
- (c) in accordance with the Code of Accounting Practice and Financial Reporting (April 2005) Section 9.5, in respect to each broad function of council, expenses that can be reliably attributed will be allocated to that function (AAS 27 paragraph 79 (b)).

ATTACHMENT/S:

UNDER SEPARATE COVER -

- 1. Draft Management Plan 2006-09
- 2. Draft Budget 2006-07
- 3. Draft Fees & Charges 2006-07

.....
GENERAL MANAGER

Director, City Services' Report 24/2006

SUBJECT:	FERGUSON STREET, MAROUBRA. LANE WIDENING EXEMPTION TO SUBDIVISION CODE REQUIREMENTS.
-----------------	--

DATE:	6 April, 2006	FILE NO:	F2004/08353
--------------	---------------	-----------------	-------------

REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

Council has received a letter from the owner of 6 Murray Street requesting Council's intentions in regard to road widening notification listed on the Section 149 Certificate for her property. No. 6 Murray Street is a large corner allotment and Council currently requires, upon redevelopment of the allotment, dedication of a strip of land 4.57 metres wide along the Ferguson Street frontage and a splay at the corner.

This report seeks Council's approval to vary Council's Subdivision Code Policy (Attachment A) to provide exemption to the 4.57 metre wide land widening dedication requirement for No. 6 Murray Street, Maroubra and other similarly affected properties zoned residential 2a that adjoin Ferguson Street, Maroubra.

ISSUES:

Randwick City Council has a Subdivision Code Policy which requires the dedication of a strip of land 4.57 metres wide along the Ferguson Street frontage. A schedule of affected corner properties for which this report is seeking exemption to Council's 4.57 metre wide lane widening dedication requirement is detailed below.

Schedule of Properties seeking exemption to the 4.57metre lane widening dedication.

Lot	DP	No.	Street	Suburb
13	6374	6	Murray Street	Maroubra
21	573920	8	Murray Street	Maroubra
A	342735	7	Wade Street	Maroubra
A	313094	11	Wade Street	Maroubra
6	14330	12	Wade Street	Maroubra
A	418395	14	Wade Street	Maroubra
1	228529	127	Fitzgerald Avenue	Maroubra
2	228529	127	Fitzgerald Avenue	Maroubra
1971	662873	129	Fitzgerald Avenue	Maroubra

In other similar circumstances, in the past, Council has provided an exemption to corner allotment properties where they have long side boundaries and imposition of the 4.57 metre wide lane widening dedication would have a significant adverse impact upon the future development potential of the allotment. Council still required the dedication of splay corners to improve driver and pedestrian safety at the corners of the narrow road necks.

Council is soon to commence lane widening in Ferguson Street between Fitzgerald and Wade Streets this financial year. Council will be constructing this section of road without widening of either entry to this section of Ferguson Street. Thus Council would be unlikely to ever require lane widening for the corner allotments in the future as the road alignment is set by council's kerb and gutter construction.

It would be reasonable for council to provide exemptions for the properties listed in the schedule above. For future lane widening construction of Ferguson Street, Council will have to accept a narrow single lane road pavement width and no footpaths constructed adjacent to the corner properties. A shared pedestrian vehicle zone will need to be created in these narrow road necks in accordance the Austroads Guidelines to maintain pedestrian safety.

Council would still require dedication of suitable 3 metre by 3 metre splay corners, at each corner, given the narrowness of the road pavement and the need to provide sight distances for pedestrians and vehicles for safety. Council should require and apply contributions for road widening at the specified rate for the entire side boundary for the purposes of construction of kerb and gutter and creation of the shared pedestrian vehicle zone.

Providing exemptions for the dedication of the strip of land will lessen the available space for the provision of public and private utility services. Thus all services will be provided in the narrow neck of the road under the road pavement. Locating services under the road pavement is more expensive and impacts upon traffic movements during maintenance of the services.

The Director Planning and Environment is currently reviewing Council's Subdivision Code and will be able to investigate all corner blocks for all roads listed for lane widening in regard for there suitability for exemption for the 4.57 metre lane widening dedication requirement. This reviewed and updated subdivision code will avoid the need to report each instance to Council.

FINANCIAL IMPACT STATEMENT:

There are no direct financial implications for Council.

CONCLUSION:

It is reasonable for Council to grant exemption to the requirement for the lane widening dedication for the properties listed in the above schedule considering that this requirement will have a major impact upon the development potential of the properties and Council has made similar concessions to other corner property allotments in the past.

Council would have to accept that the resulting road width will be only one car lane width necessitating on coming traffic to stop to allow other cars to pass as is the case at present. In addition pedestrians will need to use the road pavement to access the street as there will be inadequate width to construct any footpaths. Council can mitigate this pedestrian vehicular conflict by creating a shared pedestrian vehicle zone in accordance with the Austroads Guidelines whereby traffic is slowed to a safe pedestrian friendly speed.

RECOMMENDATION:

That:

- (a) Council provide exemption for the requirement of a 4.57 metre wide lane widening dedication for the properties listed in the schedule contained within this report as specified in Council's Subdivision Code Policy and the Section 149 Certificate be amended to reflect Council's resolution.
- (b) the property owners be advised that upon redevelopment of the property that the 4.57 metre wide lane widening dedication will not be required by Council however the lane widening contribution will still be required to allow construction of kerb and gutter and provide a pedestrian vehicular shared zone adjacent to the property. Council will require a 3m by 3m splay corner at the intersection of Murray and Ferguson Streets for pedestrian and vehicle safety.

ATTACHMENT/S:

Council's Subdivision Code.

.....
JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
JOHN EARLS
CO-ORDINATOR ASSETS

RANDWICK CITY COUNCIL**POLICY REGISTER****PART 6 – PLANNING & COMMUNITY DEVELOPMENT****Review Date:** / /**Policy No:** 6.01.22**POLICY TITLE:** SUBDIVISION CODE.**File No.** P-54-5OBJECTIVE

To establish guidelines for the subdivision of land for the guidance of Council employees and the public so as to achieve consistency in, and a specific level of, standards to be provided in association with the subdivision of land.

POLICY STATEMENT**A. Subdivisions In Land Zoned 2(A1), 2(A2), 2(B1), 2(B2), 2(C1) and 2(D)**

(1) That a subdivision of land shall not be approved in respect of an allotment of land: -

(a) within Zone No. 2(a1), 2(b1), 2(b2) or 2(c1) unless each separately created new allotment:

(i) has an area of not less than 325 square metres; and

(ii) is not less than 9 metres wide at the front alignment of the allotment; or

(b) within Zone No. 2(a2) or 2(d) unless each separately created new allotment:

(i) has an area of not less than 460 square metres; and

(ii) is not less than 15 metres wide at the front alignment of the allotment.

(2) Notwithstanding subclause (1)(a), the Council may consent to the subdivision of land creating an allotment of land within Zone No. 2(a1), 2(b1), 2(b2) or 2(c1) if the area, or the width at the front alignment of the allotment, departs to only a minor extent from the area or width prescribed in subclause (1)(a).

(3) For the purposes of subclause (1), the area of an access corridor shall not be taken into account in computing the area of a hatchet-shaped allotment.

B. Section 94

Residential subdivision contributes to increased population and additional demand for public amenities and services. Accordingly, Council contribution levies for both open space and community facilities are required to serve the new population generated by residential subdivision. Applicants should refer to Council's Section 94 Contribution Plan for details. (H.B. & P. C'ttee - 9.11.93)

C. Subdivisions To Lanes 6.096m Wide

That the Council favourably consider proposals submitted for the subdivision of land with frontages to roads 6.09m in width, under the following conditions.

1. The applicant must agree to dedicate, for road widening purposes, a strip of land 4.57m in depth along the frontage of the lane;
2. The applicant must pay to Council a contribution in an amount determined by the following formula:

Formula for Calculation of Contribution for Road Widening.

$$\text{Contribution in \$/metre} \\ = 303 \left(0.6 \frac{Mn}{Mo} + 0.4 \frac{Ln}{Lo} \right)$$

where:

- (a) 303 is the adjusted contribution in \$/metre for 1989 based on the amended Labour Index for June, 1985.
- (b) 0.6 and 0.4 are the proportions of the total anticipated cost of materials and labour respectively.
- (c) Mn is the Materials Index Number, which shall be the Price Index (Cat 6407 for ready mix concrete) as published by the Australian Bureau of Statistics applicable to November of the preceding year.
- (d) Mo is the Base Materials Index Number (Cat 6407 for ready mix concrete) and shall be taken as 198.7 being the index number for November, 1988.
- (e) Ln is the Labour Index Number, which shall be the Hourly Wage Rebate Adult Male Index Number for the Construction Industry Group for New South Wales males as published by the Australian Bureau of Statistics applicable to November of the preceding year.
- (f) Lo is the Base Labour Index Number and shall be taken as 118.6 being the index number for November, 1989, based on June, 1985 = 100. (12/1990-20/2)

The contribution for road widening shall be held in the Trust Fund for construction of the roadway, footpath, kerb and gutter and drainage. These improvements will not be commenced until all properties except the corner lots on one side of the lane, at least for one block, have been subdivided.

3. The purpose of the proposed subdivision must be permissible under the Council's Planning Scheme Ordinance and the frontages and areas shall comply with Clause 53 of the Planning Scheme Ordinance.
4. The land in the proposed subdivision fronts one of the following streets:
 - (a) Ferguson Street, Maroubra, between Maroubra Road and Beauchamp Road with the exception of properties No. 124 and 126 Fitzgerald Avenue with side alignments to Ferguson Street and No. 873 Anzac Parade with its rear alignment to Ferguson Street, (492/1986 - 14/10) and also with the exception of properties No. 181 - No. 191 Maroubra Road and No. 193 - No. 199 Maroubra Road with side frontages to Ferguson Street. (Del. Authority 16th April, 1987 - Sub 1, H.B. & T.P. Committee) and 139-145 Ferguson Street. (184/1991 - 18/6) and 4 Wise Street, with side alignment to Ferguson Street, Maroubra (171/1992 - 26/5) and No. 6 Wise Street with side alignment to Ferguson Street, Maroubra (it should be noted that Council will require 2m x 2m splay corners on the south eastern and north eastern corners of this allotment) (H152/2000 - 5/12)
 - (b) Glanfield Street, Maroubra, between Bunnerong Road and Bruce Bennetts Place, with the exception of the property at 79 Hannan Street, which requires a road widening of 2 metres along its entire Glanfield Street frontage and, in addition, 2m x 2m splay corners on the north eastern and north western sides of the allotment. (H30/2004-8/6)
 - (c) Green Street, Maroubra, between Anzac Parade and Cooper Street, with the exception of property No. 119 Garden Street with side alignment to Green Street, this property to be subjected to 2m x 2m splay corners of the south-eastern and south-western corners of the allotment in the event of any redevelopment of the site. (H.B. & P. C'ttee - 6/9/94)
 - (d) Galvin Street, Maroubra, between Cooper Street and Mulgray Avenue, with the exception of property No. 12 Mulgray Avenue with side alignment to Galvin Street, this property to be subjected to 2m x 2m splay corners on the south-eastern and south-western corners of this allotment in the event of any redevelopment of the site. (H.B. & P. C'ttee - 4/10/94)
 - (e) Mason Street, Maroubra, between Bunnerong Road and Anzac Parade.
 - (f) Alma Road, Maroubra, between Anzac Parade and Cooper Street.
Metcalf Street, Maroubra, between Garden Street and Flower Street, with the exception of properties No. 217 to No. 237 Storey Street, Maroubra, inclusive, with rear alignments to Metcalfe Street, and property No. 40 Cooper Street, Maroubra, with side alignment to Metcalfe Street. (347/1986-22/7) (H.B. & P. C'ttee - 3/5/94) and property No. 6 Flower Street, Maroubra which has frontage to Metcalfe Street. (H36/2001 - 13/3)
 - (h) Nevorie Crescent, Maroubra, between Royal Street and Hannan Street.
 - (i) Marjorie Crescent, Maroubra, between Storey Street and Royal Street.
 - (j) Eastmore Place, Maroubra, between Bunnerong Road and Marjorie Crescent.
 - (k) Bundock Lane, Randwick, between Avoca Street and Canberra Street.

D. "Battle Axe" Subdivision

That the Council favourably consider subdivisions creating what are commonly termed "battle axe, hatchet shaped or pan-handled shaped" allotments, under the following conditions:

1. The areas of the proposed new allotments shall comply with Clauses 55(1) and 55(3) of the Planning Scheme Ordinance.
2. The frontage of the lots fronting the road shall comply with Clause 55(1) of the Planning Scheme Ordinance.
3. The length of road frontage and width of the access corridor shall be a minimum of 3.60m except in cases creating two (2) or more contiguous hatchet shaped allotments where the minimum may be reduced to 2.50m for each access corridor provided reciprocal rights of way are created over the total access corridor width and length.
4. All subdivisions creating hatchet shaped allotments which do not comply with the above conditions, shall be referred to Council for consideration.

**E. Dual Occupancy And Semi-Detached Dwellings.
(H223/1996-20/8)**

Council may permit the Torrens title subdivision of development in accordance with lines of occupation without regard to the minimum allotment sizes required by clause A (1) if: -

- (a) The building(s) was lawfully erected prior to 28 April, 1978;
- (b) The application to erect a dual occupancy was approved prior to 8 May 1995;
or
- (c) The application to erect a dual occupancy was lodged prior to 8 May 1995;
and subsequently approved.

F. Shops And Dwellings

That the Council will favourably consider the land subdivision of a shop and dwelling only when:

- (1) the newly created allotments have minimum areas as required by Clause 55 of the Planning Scheme Ordinance for a single dwelling, if located in a residential zone;
- (2) the proposed subdivision does not contravene provisions of Clause 11.2 of Ordinance 70, if located in any zone other than a residential zone;

but that, in any case, Council would consider an application for the issue of a Certificate for a Strata Plan for the premises.

**G. Creation Of Residue Land After Dedication Of Land For Public Purposes
(Roads, Reserves, Etc.)**

That each application be treated on its merits with due regard to the adopted subdivision policies of the Council and provisions of the Planning Scheme Ordinance.

H. Subdivision By The Crown And Public Utility Undertakings And The Totalisator Agency Board

That Council consider each subdivision proposal by the Crown, Public Utility Undertaking and the Totalisator Agency Board, on its merits, with regard being had to the provisions of the Planning Scheme Ordinance and Council's subdivision policies.

I. Undergrounding Of Electricity Mains. (S-16-5)

That the Council require all subdividers, including the Crown and Department of Housing, in respect of subdivisions involving the opening of a new road with ten (10) or more Lots, to arrange with Sydney Electricity to provide underground electricity mains, on the understanding that Council would agree to accept the resulting increased lighting charges imposed by Sydney Electricity.

Minute No: /___	Meeting Date:
Items A, B, C, D, E, F, G, H, I:	
Item J: 34/1978	14 February, 1978
Amended:	
Minute No: 439/1978	13 June, 1978
Minute No: 606/1981	10 November, 1981
Amended:	
Minute No: 492/1986	14 October, 1986
Amended:	
Minute No: 347/1986	22 July, 1986
Amended:	
Delegated Authority - Sub. 1, Health, Building and Planning Committee:	16 April, 1987
Amended:	
Minute No: 342/1989	17 October, 1989
Amended:	
Minute No: 12/1990	20 February, 1990
Minute No: 184/1991	18 June, 1991
266/1991	20 August, 1991
171/1992	26 May, 1992
Health, Building and Planning Committee:	9 November, 1993
Health, Building and Planning Committee:	3 May, 1994
Health, Building and Planning Committee:	6 September, 1994
Health, Building and Planning Committee:	4 October, 1994
Minute No: H223/1996	20 August, 1996
H152/2000	5 December, 2000
H36/2001	13 March, 2001
H30/2004	8 June, 2004

Director, Governance & Financial Services' Report 23/2006



SUBJECT:	INTERNAL REPORTING SYSTEM - PROTECTED DISCLOSURES ACT
-----------------	---

DATE:	16 March, 2006	FILE NO:	F2005/00303
--------------	----------------	-----------------	-------------

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

The Council annually reviews its Internal Reporting System and Policy in relation to the Protected Disclosures Act.

ISSUES:

Clause 12 of the Internal Reporting System, Policy No. 1.04.04, provides that the policy shall be reviewed annually to ensure that it meets the object of the legislation and facilitates the making of disclosures under the Act.

As detailed in the Policy, Randwick Council does not tolerate corrupt conduct, maladministration or serious and substantial waste of public money. The Council is committed to the aims and objectives of the Protected Disclosures Act. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by staff without any detrimental action in reprisal for making the disclosures.

The network of nominated disclosure officers is significant and includes the General Manager, all Department Heads, all Managers, the EEO Co-ordinator and all members of the Council's Joint Consultative Committee.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

Whilst no disclosures have been made under the Council's Internal Reporting System during the past year, it is considered that the Policy does meet the objects of the legislation and does facilitate the making of disclosures, should the need for such arise.

Disclosure ability is enhanced by the number of nominated disclosure officers as detailed in the Policy.

In addition, periodic articles are placed on the Council Intranet to remind employees of the Internal Reporting System.

RECOMMENDATION:

That the report be received and noted.

ATTACHMENT/S:

Nil

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE &
FINANCIAL SERVICES

.....
JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR

Director, Governance & Financial Services' Report 24/2006



SUBJECT:	ADOPTION OF FEES & CHARGES FOR HIRE OF BUNDOCK STREET COMMUNITY CENTRE
-----------------	--

DATE:	7 April, 2006	FILE NO:	F2004/08418
--------------	---------------	-----------------	-------------

REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

Further to the Council Resolution dated 14 February 2006 which stated “that Council grant authority for public notice of the fees to Bundock Street Community centre main hall, studio space and meeting rooms in accordance with Section 610F of the Local Government Act”, a notice advising the public exhibition of fees & charges was placed in the Southern Courier on Tuesday, 28 February 2006.

ISSUES:

The fees were advertised in accordance with the Local Government Act from 28 February 2006 to 28 March 2006 and were available for inspection on Council’s website, Randwick Branch Library, Bowen Library, Matraville Library and at Council’s Administration Centre.

Council must consider any submissions duly made to it during the period of public notice.

Three submissions were received. The issues/questions raised by the submissions are:

1. Fee level - \$22 per hour at Neutral Bay versus \$33 per hour at Randwick.
2. Why are Council charging fees for a premise that has been provided by the Department of Defence?
3. Why distinguish between “Commercial & Non-Commercial” classification fees?
4. What are the fees & charges based on or comparable with?
5. Has consideration been given to users of old community centre?

The premises consists of a brand new multi-purpose community facility, to be furnished with tables & chairs, trolleys, cooking facilities, whitegoods, whiteboards and fans, to name but a few of the furnishings. The premise is centrally located, close to public transport, with plenty of parking and open space. The facility represents a state of the art community facility with no comparable premises located in the Eastern Suburbs. Much

thought has gone into the development and furnishing of this facility to address the needs of many user groups.

Council will be engaging the services of contractors to maintain the premises including cleaners, service technicians, tradespersons and security/patrol services. The on-going operating expenses necessitate the implementation of fees & charges.

Council determined two (2) main user groups, Commercial & Non-Commercial, similarly to those groups that use alternative Council owned premises, such as Library meeting rooms, Senior Citizen Halls and Youth Halls.

The definition of a commercial/private user is when a group or organisation charges an entry fee for or a participation charge for a private function, e.g. Birthday Party, Yoga or Dance Classes. The definition of a non-commercial/charity user is when an organisation or group have no cover charge or just seek donations, e.g. Alcoholic's Anonymous or Senior Citizen Groups.

The fees and charges are based on comparable Council owned premises, including Randwick City Council Town Hall, HACC meeting rooms at Bowen Library, Coogee & Clovelly Senior Citizen Halls, South Matraville Memorial Hall and Matraville Youth & Cultural Hall, subject to the condition and size. Comparable information was also gained for local Scout hall hire charges through the Scout Association.

The proposed fees are as follows:

Fee/charge Description	2005/2006		
	Fees excl. GST	GST	Total
	\$	\$	\$
BUNDOCK STREET COMMUNITY CENTRE MAIN HALL (295m2) – Regular & Casual Lettings			
(Commercial/Private: When a group or organization charges an entry fee or a participation charge or for a private function. Non-Commercial/ Charity: When an organization or group have no cover charge or just seek donations are considered Non Commercial)			
Evening Bond (If hall used after 8.00pm)*			
Commercial Users *	1,440.00	GST FREE	1440.00
Non Commercial Users **	700.00	GST FREE	700.00
Day time Bond			
Commercial Users *	700.00	GST FREE	700.00
Non Commercial Users **	350.00	GST FREE	350.00
Fees Monday - Friday per hour			
Commercial Users *	80.00	8.00	88.00
Non Commercial Users **	40.00	4.00	44.00

Fee/charge Description	2005/ 2006		
Fees Saturday - Sunday & Public Holidays per hour			
Commercial Users *	120.00	12.00	132.00
Non Commercial Users **	60.00	6.00	66.00
BUNDOCK STREET COMMUNITY CENTRE STUDIO SPACE (56m2) – Regular & Casual Lettings			
(Commercial/Private: When a group or organization charges an entry fee or a participation charge or for a private function. Non-Commercial/ Charity: When an organization or group have no cover charge or just seek donations are considered Non Commercial)			
Bond			
Commercial Users *	300.00	GST FREE	300.00
Non Commercial Users **	150.00	GST FREE	150.00
Fees Monday - Friday per hour			
Commercial Users *	40.00	4.00	44.00
Non Commercial Users **	20.00	2.00	22.00
Fees Saturday - Sunday & Public Holidays per hour			
Commercial Users *	50.00	5.00	55.00
Non Commercial Users **	25.00	2.50	27.50
BUNDOCK STREET COMMUNITY CENTRE MEETING ROOMS (25.2m2, 25.2m2 & 16.17m2) – Regular & Casual Lettings			
(Commercial/Private: When a group or organization charges an entry fee or a participation charge or for a private function. Non-Commercial/ Charity: When an organization or group have no cover charge or just seek donations are considered Non Commercial)			
Bond			
Commercial Users *	300.00	GST FREE	300.00
Non Commercial Users **	150.00	GST FREE	150.00
Fees Monday - Friday per hour			
Commercial Users *	30.00	3.00	33.00
Non Commercial Users **	15.00	1.50	16.50
Fees Saturday - Sunday & Public Holidays per hour			
Commercial Users *	35.00	3.50	38.50
Non Commercial Users **	20.00	2.00	22.00

All regular users of the old Bundock Street Community Centre (to be decommissioned/closed in mid-April) have been given priority in bookings.

FINANCIAL IMPACT STATEMENT:

The financial impact of this matter will result in increased revenue to Council for the use of the premises by various commercial and community groups. The implementation of the fees & charges at their current level will enable Council to maintain the facility in a sustainable and satisfactory condition. The income will be off-set against the expenses to maintain the premises.

CONCLUSION:

The draft fees & charges have been publicly exhibited in accordance with the requirements of Section 610F of the Local Government Act and the submissions have been duly considered.

RECOMMENDATION:

That:

- a) Council adopts the draft fees & charges for the new Bundock Street Community Centre, as exhibited.
- b) the public submissions be noted.

ATTACHMENT/S:

Nil

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE &
FINANCIAL SERVICES

Director, City Planning Report 28/2006

SUBJECT:	2 ALBERT STREET & 155-161 AVOCA STREET, RANDWICK
-----------------	---

DATE:	6 April, 2006	FILE NO:	DA 1035 / 2005
--------------	---------------	-----------------	----------------

REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Attached is Development Application No. 1035/2005 for additions and alterations to the approved mixed use development including provision of 3 additional dwelling units, changes to carpark layout, changing the approved residential units Nos. 1-7 at first floor level to commercial offices, provision of 2 adaptable dwelling units Nos. 15 and 16 on second floor level, and additional windows and pergolas to improve amenity.

RECOMMENDATION:

That Council consider and determine the Development Application in accordance with the recommendation contained in the attached report.

ATTACHMENT/S:

Development Application Report dated 5 April 2006.

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
DAVID ONGKILI
ENVIRONMENTAL PLANNING OFFICER

Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE: 5 April, 2006 **FILE NO:** D/1035/2005

<p>PROPOSAL:</p> <p>PROPERTY:</p> <p>WARD:</p> <p>APPLICANT:</p> <p>OWNER:</p>	<p>Alterations and additions to the approved mixed use development including provision of 3 additional dwelling units, changes to carpark layout, changing the approved residential units Nos.1-7 at first floor level to commercial offices, provision of 2 adaptable dwelling units Nos. 15 and 16 on second floor level, and additional windows and pergolas to improve amenity.</p> <p>2 Albert Street and 155 - 161 Avoca Street, Randwick</p> <p>North Ward</p> <p>CNL Properties No.1 Pty Limited</p> <p>CNL Properties No.1 Pty Limited</p>
	<p>Subject Site</p> <div style="border: 2px solid black; height: 40px; width: 100%;"></div>
	<div style="background-color: #cccccc; height: 30px; width: 100%;"></div> <p>Submissions received</p>
	<p>▲</p> <p>North</p> <p>LOCALITY PLAN</p>

1. EXECUTIVE SUMMARY

The application is referred to Council for determination at the request of Councillors Margaret Woodsmith, Murray Matson and Bradley Hughes.

The application comprises a proposed amendment to an approved mixed-use commercial and residential building (DA No. 156/2002 approved on 8 October 2002). The revised scheme incorporates the following amendments/alterations:

1. Reconfiguration of the approved ground floor parking layout to accommodate structural columns and improve efficiency
2. Relocation of the approved communal terrace at third floor level to the west to improve solar access to courtyard below
3. Provision of two new one-bedroom apartments at the western side of the third floor level
4. Provision of one new three-bedroom apartment on the roof terrace level by reconfiguring roof-top terraces.
5. Changing the use of 7 approved residential apartments (being units 1-7) at first floor level into “commercial offices” (to be known as Commercial Tenancy Nos. 10-16).
6. Providing adaptable apartments in Units 15 and 16 on the second floor level.
7. Changing the configuration and openings of the proposed dwelling units as required by the Design Review Panel.

Amendments/alterations Nos 5 and 6 above were initially contained in a separate development application (DA No. 1063/2005). This DA was withdrawn on 2 March 2006 and the proposed changes the subject of that DA (as described in Nos 5 and 6 above) have now been incorporated into the current subject DA.

The proposal also does not comply with the maximum building height control to which the applicant has submitted a SEPP No 1 objection. The objection is well-founded indicating that strict compliance with the control would be unreasonable and unnecessary. It should be noted that the previously approved development under DA No. 156/2002 contained a similar breach in the FSR that was supported by a SEPP No.1 objection.

The proposal does not comply with the carparking requirements of Council’s DCP – Parking with a shortfall of 4 carparking spaces. Appropriate justifications have been provided by the applicant’s traffic consultant which have been found to be reasonable and acceptable and a Section 94 contribution will be levied for the shortfall should approval be granted.

The amended proposal has been referred to the Design Review Panel, pursuant to SEPP No. 65 and the Panel finds that the proposal meets the design criteria and objectives of SEPP No. 65.

As the proposal varies minimally from the approved building envelope and elevations of the original DA, the proposal will have minimal impact in terms of overlooking and overshadowing of adjoining/neighbouring properties.

Accordingly, the recommendation is for deferred commencement approval subject to conditions.

2. THE PROPOSAL

The proposal originally sought to amend the approved development on the subject site as follows:

- Reconfiguring the approved ground floor parking layout to accommodate structural columns and improve efficiency.
- Relocating the approved communal terrace at third floor level to the west to improve solar access to courtyard below.
- Providing two new one-bedroom apartments at the western side of the third floor level (Units Nos. 35 and 36).
- Providing one new three-bedroom apartment on the roof terrace level by reconfiguring roof-top terraces (Unit No. 37).

A separate DA (No. 1063/2005) was withdrawn for the subject site for the following proposals which have now been incorporated into the current subject DA (amended plans received on 2 March 2006):

- Changing the use of 7 approved residential apartments (being units 1-7) at first floor level into “commercial offices” (to be known as Commercial Tenancy Nos. 10-16).
- Providing adaptable apartments in Units 15 and 16 on the second floor level.

Additionally, the applicant has incorporated the following changes in the latest amended proposal as required by the Design Review Panel :

- Providing an additional bathroom window to the proposed Unit No. 35 and additional kitchen windows to the proposed Unit Nos. 35 and 36.
- Extending the east-facing balcony to the proposed Unit Nos. 35 and 36.
- Reconfiguring the proposed Unit No. 37 to increase the setback of the unit from the central courtyard with lightwells now deleted.

- Providing pergola shade structures to proposed Units Nos. 35, 36 and 37 to allow additional solar protection to windows and terraces.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is located on the eastern side of Avoca Street at the northern corner with Albert Street (refer Figure 1) and is identified as Lot 1 in DP 215075. The site is located within the Randwick Junction Town Centre and forms part of the Randwick Junction Heritage Conservation Area. The site is currently under construction, following the demolition and decommissioning of the site from its previous use as a petrol station.

The site has a frontage of 39.44m to Avoca Street, a secondary frontage of 37.23m to Albert Street and a total site area of 1,709m². The site is partly affected by a Right of Way adjacent to its eastern boundary, which provides vehicular and pedestrian access to properties located to the north of the site and is also burdened by an easement for light and air on its northern boundary.



Figure 1: Locality map

Directly adjacent to the north of the site is a tow storey row of shops/restaurants with residences above, while to the east (rear) of the site are an electricity substation and the

rear yards of properties fronting onto Victoria Street. On the opposite (southern) side of Albert Street is a four storey residential flat building (circa 1960's), while on the opposite (western) side of Avoca Street are heritage terrace houses and commercial buildings.

4. APPLICATION HISTORY

Council at its Health, Building and Planning Committee Meeting of 8 October, 2002, granted a deferred commencement consent to Development Application No. 02/00156/GG for the construction of a mixed commercial/residential development comprising five (5) commercial suites, 36 residential dwellings and associated carparking. Strata subdivision did not form part of the approval. The development, as approved, is organised around an open courtyard area at ground floor area, with two (2) lifts providing access to all floors. In detail, the approved development contains the following uses :-

- Basement parking for 46 vehicles;
- Ground floor level consisting of five (5) commercial tenancies, two (2) x one (1) bedroom residential units, car parking for 10 vehicles, including 2 loading docks and two accessible spaces;
- First floor level consisting of 14 x one (1) bedroom apartments;
- Second floor level consisting of one (1) x studio apartment, 12 x one (1) bedroom apartments and one (1) x two (2) bedroom apartment;
- Third floor level consisting of one (1) x one (1) bedroom apartment, four (4) x two (2) bedroom apartments and one (1) x three (3) bedroom apartment;
- Roof level containing three (3) roof terraces attached to apartments below.

The consent was subject to one deferred commencement condition requiring a schedule or sample board of colours, materials and textures of the external surfaces of the building. The schedule of external colours, materials and textures was approved on 12 November, 2002 and the consent became operable by Council letter dated 3 December, 2002. The approved external finishes comprised a combination of painted rendered finish and face brickwork.

On the 9 August 2005 Council approved a Section 96(2) application to modify the layout of the development by reducing the number of residential dwellings from 36 to 34, increase the basement car park to accommodate more vehicles and increase the number of retail tenancies from 5 to 9.

On the 27 September 2005 Council approved a Section 96(1A) application to alter the external finishes and colours of the proposed development.

A separate development application (DA No. 1063/2005) was lodged on 22 December 2005 for the subject site essentially proposing the change of use of 7 approved residential apartments, units Nos. 1-7 on the first floor level, into commercial offices and the provision of adaptable apartments in Units 15 and 16 on the second floor level. This DA

was withdrawn on 2 March 2006 and the proposed changes that were the subject of this DA were incorporated into the current subject DA on the same date.

5. COMMUNITY CONSULTATION:

The original proposal (that is, without the additional changes from the withdrawn DA No 1063/2005) was notified and advertised in accordance with the Development Control Plan – Public Notification of Development Proposals and Council Plans, on until 18 January 2006. The following submissions were received in response to this notification/advertising:

J. Delich, 2/12 Victoria Street, Randwick

- The combined carparking requirements arising from the proposals under the current subject DA (DA No. 1035/2005) and under DA No. 1063/2005 will be greater than the amount available under the approved DA No. 156/2002.

Comment: The proposal will result in a shortfall of 4 carparking spaces for the commercial use. This shortfall is nominal as it arises as a result of the application of the DCP carparking rate of 1 car spaces per 40 sqm when, in fact, the proposal will provide for 21 commercial carspaces for the proposed 16 commercial tenancies with smaller tenancies getting 1 car space and larger tenancies having 2 car spaces. This issue is further addressed in Section 9.2.2 below.

- The increase in building height will create overshadowing and overlooking of adjoining/surrounding properties.

Comment: The addition of 3 new dwelling units will not give rise to any adverse impact in terms of overshadowing as indicated in the submitted shadow diagrams and will not result in overlooking of adjoining properties because of the distance and orientation of the proposed units and the use of planter bed screening on terraces. This issue is addressed further in Section 9.3.2.3 below.

N. Margon 5/1 Albert Street, Randwick

- The combined carparking requirements arising from the proposals under the current subject DA (DA No. 1035/2005) and under DA No. 1063/2005 will be greater than the amount available under the approved DA No. 156/2002.

Comment: The proposal will result in a shortfall of 4 carparking spaces for the commercial use. This shortfall is nominal as it arises as a result of the application of the DCP carparking rate of 1 car spaces per 40 sqm when, in fact, the proposal will provide for 21 commercial carspaces for the proposed 16 commercial tenancies with smaller tenancies getting 1 car space and larger tenancies having 2 car spaces. This issue is further addressed in Section 9.2.2 below.

- The increase in building height will create overshadowing and overlooking of adjoining/surrounding properties.

Comment: The addition of 3 new dwelling units will not give rise to any adverse impact in terms of overshadowing as indicated in the submitted shadow diagrams and will not result in overlooking of adjoining properties because of the distance and orientation of the proposed units and the use of planter bed screening on terraces. This issue is addressed further in Section 9.3.2.3 below.

The Randwick Precinct Committee

- Intensification of use over the permissible FSR

Comment: The additional dwelling units will increase the FSR from the approved 1.85:1 to 1.998: 1. Accordingly, the increase is still within the permissible FSR standard of 2:1.

- Overshadowing

Comment: Shadow diagrams submitted with the DA indicate that the increase in overshadowing associated with the proposed additional units will be minor and will not result in any significant and adverse sunlight loss. This issue is further addressed in Section 9.3.2.3 below.

- Excessive building height over the permissible

Comment: The increase in the building height over the approved building height amounts to 0.113m which is not considered excessive (see assessment of SEPP No.1 Objection in Section 9.1.1.1 below)

- Insufficient storage for rubbish

Comment: A condition will be applied requiring a reconfiguration and re-arrangement of storage spaces for bins to accommodate the increase in waste disposal arising from the proposal. It should be noted that Council's Waste Compliance Officer has indicated that bins should be collected from Albert Street given that Avoca Street is classified as a State Road with high traffic volumes.

- Insufficient parking arising from the combined proposals under the current subject DA (DA No. 1035/2005) and under DA No. 1063/2005 will be greater than the amount available under the approved DA No. 156/2002.

Comment: As above, the shortfall of 4 carparking spaces occurs only for the commercial use. This shortfall is nominal as it arises as a result of the application of the DCP carparking rate of 1 car spaces per 40 sqm when, in fact, the proposal will provide for 21 commercial carspaces for the proposed 16 commercial tenancies with smaller tenancies getting 1 car space and larger tenancies having 2 car spaces. This issue is further addressed in Section 9.2.2 below.

The amended proposal (incorporating the changes proposed under the withdrawn DA No. 1063/2005) was renotified on 8 March 2006. No objections were received in response to this renotification.

It should be noted that, prior to its withdrawal, DA 1063/2005 was notified between 25 January 2006 to 8 February 2006. No submissions were received in response to the notification of this DA.

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 Heritage

Council's Heritage Planner raises no objections to the proposal advising as follows:

"The subject site has a western boundary to Avoca Street, a southern boundary to Albert Street, and an eastern boundary to a right-of-way. The site is located within the Randwick Junction Conservation Area and is in the vicinity of a number of heritage items. The original proposal was for a mixed commercial/residential development within includes shops to the ground floor Avoca Street frontage.

A development application has now been received which proposes two additional units to be provided to the western (Avoca Street) side of the development, adjacent to the existing four storey corner element, as well as one additional penthouse unit to the eastern side. As compared to the original proposal which had a three and four storey scale to Avoca Street and a four storey scale to Albert Street and the right-of-way, the current proposal will enlarge the four storey corner element to Avoca Street and create a five storey scale to the right-of-way. The scale of the building surrounding the central void area will also increase.

The development application has been accompanied by a Statement of Environmental Effects which includes a section on Heritage, stating that the proposed alterations and additions do not significantly alter the impacts of the proposal on the heritage items in the vicinity, not the heritage conservation area within which the site is located.

The Development Control Plan for Randwick Junction includes requirements for Density, Height and Setbacks. The objectives are to ensure that height and massing of new development is consistent with the dominant heights and massing in the locality, and to control the relationship of new development to the street and adjoining development.

In relation to height, it is noted that adjoining development to the north of the site has a height of two storeys, while the Coach and Horses Hotel further to the north has a height of three storeys. The residential flat building to the south, on the opposite corner of Albert Street has a height of three storeys over ground level carparking. Development to east, on the opposite side of the right-of-way consists of a single storey buildings immediately to the east, with residential flat buildings with a height of three storeys over ground level carparking further to the east. The adjacent single storey buildings consist of a brick substation with a frontage

to Albert Street and a sandstone outbuilding at the rear of the two storey semi-detached pair at nos.8-10 Victoria Street.

A perspective view of the development has been provided, looking north along Avoca Street, which indicates that the enlarged four storey element to Avoca Street will not be prominent in the streetscape when viewed from the south. A further perspective view looking south along Avoca Street has now been provided which indicates that the enlarged four storey Avoca Street element will not be prominent from the north in relation to the Coach and Horses Hotel and adjacent two storey development. Concerns have been raised that the increased height on the eastern side of the site will be inconsistent with the heights of buildings existing and allowable in the 2C zoned area to the east, and with the two storey heritage items at nos.8-10 Victoria Street. The Randwick Heritage Study Inventory Sheet for the pair describes them as a "pair of stone terraces. Late Victorian style, c. 1880?" The applicants note that the proposed penthouse unit is well set back from the perimeter of the building and have advised that sightline diagrams indicate that they will not be visible from the right-of-way on the eastern side of the site."

6.2 Development Engineer

Council's Development Engineer has advised as follows:

"An application has been received for alterations and additions to the approved mixed use development at the above site including three new residential units (2 x 1 bedroom and 1 x 3 bedroom). The application also includes changes to the ground level carpark layout.

Subsequent to the original application being submitted, the applicant has incorporated changes sought under DA 1063/2005 as part of this application. These changes include:

- *Change of use of seven (7) approved first floor residential units to commercial offices; and*
- *Conversion of units 15 and 16 as adaptable apartments.*

Note to the Planning Officer: The subject DA is reliant on the building approved under DA 156/2002 being constructed. Consequently, should development approval be issued, the planning officer shall ensure that an appropriate condition linking this DA with DA 156/2002 is included in the approval.

The comments and conditions contained in this report are based on the following plans and details:

- *Ground floor plan DA 01 (Issue A) by Jackson Teece dated 2/12/2005*
- *Letter from Varga Traffic Planning dated 30 January 2006*
- *Letter from Project Planning Associates dated 6 December 2005*

Parking Comments***Parking Supply***

According to Council's DCP for Parking the additional 3 residential units (2 x 1 bedroom and 1 x 3 bedroom) will increase the required number of residential and visitor parking spaces for the development by 4-5 spaces. The subject application does not propose any additional parking spaces to meet the increased demand, however, the submitted Traffic and Parking Assessment indicates that the previously approved development has sufficient parking to allocate the required additional spaces to the new residential tenancies.

The conversion of 7 x 1 bedroom residential apartments to 455.2 sqm of commercial floor area will further increase the parking demands by some 2-3 spaces.

Based on Council's DCP for parking the modified development would require:

	Rate	Required
Residential		
24 x 1 bed	1 space/unit	24
4 x 2 bed	1.2 spaces/unit	4.8
2 x 3 bed	1.5 spaces/unit	3
	Total	32 spaces
Visitor (30 units)	1 space/4 units	8 spaces
Commercial		
1018.65 sqm (563.44 sqm ground floor & 455.2 sqm first floor)	1 space/40sqm	25 spaces
	TOTAL	65 spaces

The development engineer notes that the total parking supply for the modified development is 61 spaces (plus 1 loading bay); consequently it appears that the modified development will be deficient by 4 parking spaces.

The planning officer should determine whether this parking deficiency is acceptable and ensure that appropriate conditions regarding allocation of the parking spaces is included in the approval. It is recommended that S94 contributions be levied for any parking shortfall.

Given that a significant number of commercial (and possibly visitor) parking spaces will be located in the basement, it is recommended that a deferred commencement condition requiring the submission of an amended basement floor

plan be included in the approval to demonstrate how the residential, visitor and commercial spaces will be separated in the basement.

Carpark layout

The amended ground floor carpark layout submitted in conjunction with this development application shows an additional four parking spaces connecting directly to the main access driveway - necessitating reversing movements onto (or from) the access driveway and right of carriageway. The Development Engineer does not support this arrangement (particularly in the location immediately adjacent to the ramp from the basement carpark) as it increases the risk of vehicular conflict by increasing the number of vehicles required to reverse over the access driveway.

It is recommended that the planning officer refuse that part of the application which seeks to modify the ground floor carpark layout.

The submitted ground floor plan appears to also show some changes to the access ramp into the basement carpark. Given that the proposed changes are not clear, it is recommended that the planning officer obtain additional information from the applicant regarding the changes prior to approving any amendments to the access ramp.

Traffic Comments

The applicant's traffic engineer has indicated that the additional three units will increase the traffic generation by less than 1 vehicle/hour in the peak and that the conversion of 7 residential units to commercial tenancies will increase the traffic generation by some 7 vehicles/hour.

The applicant's traffic engineer has confirmed that the projected additional traffic flows will not have any adverse effects on the operational performance of the right of carriageway.

Waste Comments

The proposed works will alter the residential and commercial waste requirements.

Residential wastes:

The modified development will contain a total of 30 residential units. Consequently, the sized of the residential bin room may be reduced to contain 30 x 240 litre bins rather than the previously approved 36 x 240 litre bins.

Commercial Wastes:

It is understood that the additional first floor commercial tenancies comprise a total of 455.2 sqm of GFA. Council's waste compliance officer has advised that the following waste generation rates should be applied to the first floor commercial tenancies (assuming that they will be used predominantly as offices):

- *Wastes - 20 litres/100sqm/day = 91 litres/day = 455.2 litres/week*
- *Recycling - 50 litre /100sqm/day = 227.6 litres/day = 1138 litres/week*

Adopting these rates and assuming a weekly collection of garbage, the size of the commercial bin storage room will need to be increased to facilitate an additional 2 x 240 litre garbage bins and 5 x 240 litre recycling bins.

The following condition has been included in this report to address this matter:

The residential and commercial bin storage areas shall be reconfigured to facilitate storage of 30 x 240 litre residential bins and 19 x 240 litre commercial bins whilst providing satisfactory access to all bins. The residential and commercial bins shall be stored in separate rooms. The plans submitted for the construction certificate shall be amended to demonstrate compliance with this requirement.

The above condition has not been included as a deferred commencement condition as it appears that the bin storage areas may be redesigned with major change to the ground floor layout. The planning officer should determine whether they require the above condition to be included as a deferred commencement condition.

Encroachment Comments

The submitted plans show window awnings encroaching over Council's footpath along the Avoca Street site frontage. With the exception of street level awnings, no portion of the development should encroach over Council's footpath. The following condition has been included in this report to address the matter:

The proposed awnings encroaching into public airspace shall be deleted. The plans submitted for the construction certificate shall demonstrate compliance with this requirement.

The planning officer may wish to amend this condition to specify an alternative form of shading over the windows that does not encroach into public airspace.

Strata Subdivision Comments

DA 156/2002 was for construction of the multi-unit commercial/residential development at the above site together with strata subdivision. It is however understood that the issued consent did not include approval for strata subdivision. Consequently, amended draft strata plans are not required to be submitted in conjunction with this development application.

Should the application be approved appropriate conditions shall apply."

7. MASTER PLANNING REQUIREMENTS

The total site area (1,709m²) is less than that required for the submission of a master plan under Clause 40A of Randwick LEP 1998.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

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

8.1 Randwick Local Environmental Plan 1998

The site is zoned 3A under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council's consent. The following table indicates the proposal's compliance with the numerical controls:

<i>Clause No.</i>	<i>Requirement</i>	<i>Approved Da</i>	<i>Provided (Amended Da)</i>	<i>Compliance</i>
32 – FSR	2:1 (3,418m ²)	1.85:1 (3174 m ²)	1.99:1 (3,414m ²)	Yes
33 – Building Height	12m	14.189m	14.302m	No*

* SEPP 1 objection lodged

The following relevant Clauses of clauses also apply to the proposal (and are addressed in detail in Section 10.1 below):

- Clause 43 – Protection of heritage items, heritage conservation areas and relics
- Clause 46 – Development in the vicinity of heritage items

8.2 Relevant State Environmental Planning Policies

State Environmental Planning Policies that are relevant to the proposal are:

- State Environmental Planning Policy 1 – Development Standards
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)

The application of these policies to the proposal is addressed in Section 10 below.

9. POLICY CONTROLS

The following Council policy controls apply to the proposed development:

- DCP - Randwick Junction, 1999
- DCP – Parking
- Section 94 Contributions Plan

The application of the above policies and DCPs to the proposed development is addressed in Section 10.2 below.

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 Statutory Controls – S79C(1)(a)

9.1.1 Randwick Local Environmental Plan 1998

The proposal complies with all the relevant numerical controls of the Randwick LEP 1998 with the exception of the maximum building height control.

9.1.1.1 Building Height

Clause 33 of the Randwick LEP 1998 sets a maximum 12 metre overall height limitation on buildings in the General Business 3A zone affecting the site, as measured from existing ground level. The proposal would have a maximum overall height of approximately 14.302 metres to the top of the roof-ridge over the new three bedroom apartment on the roof level, which does not comply with the building height control.

The applicant has submitted an objection under State Environmental Planning Policy No. 1 - Development Standards (SEPP 1) in respect to the non-compliance with the maximum permissible overall height limit and has argued that strict compliance with clause 33 of Randwick LEP No 1998 is unreasonable and unnecessary. In assessing the applicant's SEPP No. 1 objection the following matters are addressed:

1. Whether or not the planning control is a development standard

The building height control in question is development standards contained in the Randwick LEP 1998.

2. The underlying object or purpose of the standard

The underlying objective of the standard, as outlined in Randwick LEP 1998, is:

" to set upper limits for the heights 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 area".

3. Consistency of the development with local planning objectives for the locality

The proposed development will be consistent with planning objectives for the locality in that the section of the building that will allow for the redevelopment potential of the subject land to be further realised without creating any adverse impact on the amenity of adjoining and surrounding developments (see Section 9 below). Furthermore, the amended proposal maintains a restrained approach to the bulk and scale of the proposed building by ensuring that the additional apartments

would not be readily visible from the surrounding streets through approved setbacks and envelopes.

4. Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

It is considered that a development compliant with the prescribed height control would be unreasonable in the subject site in that the variation in height between the previously approved DA and the current proposal will be minimal. The building approved under the Section 96 modification to DA 156/2002 had a maximum height of 14.189m (RL86.049) at the top of the access stair to the roof terrace for unit No. 30. Under the current proposal, the part of the building that will result in the breach of the building height standard will occur on the roof over the additional three bedroom penthouse apartment on the roof level in the eastern elevation, namely a maximum height of 14.302m at RL 86.072. Accordingly, the proposal is only 0.113m higher than that already approved at the site.

In contrast, the proposed development would allow for a reasonable redevelopment of the land and still result in a building which will not be visually intrusive compared with the previously approved building and in the context of the neighbouring buildings in the locality.

A measure as to the suitability of the development is the extent of impact to adjoining properties in terms of overshadowing. The addition of 2 dwelling units on the third floor level in the Avoca Street frontage will give rise to a very minor patch of overshadowing in mid-winter with minimal impact on neighbouring properties. Similarly, the roof level addition of a three bedroom penthouse unit will not result in excessive overshadowing impacts to adjoining properties during the midwinter period as indicated in the accompanying shadow diagrams. The proposal will also have minimal impact in terms of loss of privacy and views (see Section 9.3.2.3 below)

On the Avoca Street frontage, the proposed additional two dwellings on the western elevation (Avoca Street) will be adequately setback within the approved builtform of the development such that the addition will not be readily apparent from the street level. More significantly, the approved parapet arrangement of the development will remain intact and consistent with that of the nearby Coach and Horses Hotel heritage item and adjacent building which both have generous parapet treatments.

Overall, the development meets the stated and underlying objectives of the height standard. As such, it is unnecessary and unreasonable to enforce the height standard in the circumstances of the case.

5. Whether the objection is well founded.

An assessment of the SEPP No. 1 objection indicates that it has:

- Articulated the underlying stated objectives of the standard clearly.

- Demonstrated that there are no adverse environmental impacts arising from the proposed development in terms of view loss, loss of privacy, overshadowing and general overbearing impacts.
- Addressed the consistency of the proposed development with the underlying stated objectives of the standard, the local planning objectives for the locality, and objectives of the Act.
- Stated why compliance with the development standard is unreasonable and unnecessary, namely:
 - the proposal involves additions to an existing building which already exceeds the maximum building height control
 - the proposal will maintain the approved building setbacks on the site
 - will not result in any unreasonable adverse impacts on adjoining development in terms of loss of privacy, overshadowing or visual impact
 - will not detrimentally impact on the amenity of the existing residential development of the area

It is considered that SEPP 1 objection is well founded and should be supported.

9.1.1.2 Clause 43 – Protection of heritage items, heritage conservation areas and relics

Clause 43 requires Council to assess the impact of any proposal that involves works on a heritage item or within a heritage conservation area. The subject site lies within the Randwick Junction Conservation Area. The applicant has provided a supporting letter from its heritage consultant, Graham Brooks and Associates, addressing the heritage issues of the proposal and referring to the earlier heritage impact assessment that was undertaken for the originally approved proposal. Council's heritage planner has assessed the proposal in the light of the consultant's advice and raises no objections to the proposed amendments (see assessment in Section 9.3.2.2 below).

9.1.1.3 Clause 46 – Development in the vicinity of heritage items

Clause 46 requires Council to assess the impact of any proposal that involves works in the vicinity of heritage item(s). The subject site is in the vicinity of a number of heritage items including the Coach and Horses Hotel to the north and heritage terrace houses on the opposite side of Avoca Street. The applicant has provided a supporting letter from its heritage consultant, Graham Brooks and Associates, addressing the heritage issues of the proposal and referring to the earlier heritage impact assessment that was undertaken for the originally approved proposal. Council's heritage planner has assessed the proposal in the light of the consultant's advice and raises no objections to the proposed amendments (see assessment in Section 9.3.2.2 below).

9.1.1.4 SEPP 1 – Development Standards

The applicant's SEPP 1 objection made in response to the non-compliance with the 12m height standard is discussed in Section 9.1.1.1 above.

9.1.1.5 SEPP 65 – Design Quality of Residential Flat Buildings

The proposal is subject to the provisions of State Environmental Planning Policy No. 65 (SEPP 65) – Design Quality of Residential Flat Buildings and, as part of this, was referred to the Design Review Panel. The Panel's comments and assessment of the SEPP 65 issues are addressed in Section 10 below.

9.2 Policy Controls - S79C(1)(a)

9.2.1 Development Control Plan – Randwick Junction, 1999

<i>Control</i>	<i>Requirement</i>	<i>Provided</i>	<i>Compliance</i>
3.1 Site Analysis	Site analysis plan to be lodged	Site analysis in Section 2 of the SEE	Yes
3.2 Density, Height	As per LEP for density and height (see above)	As Above in Section 9.1	As Above in Section 9.1
	Nil setback to street and side boundaries or consistent with adjoining properties	Approved setbacks maintained ie., nil setback to Avoca St and northern side boundary and 2.5m to eastern (rear boundary) 1.0-1.9m to Albert St	Yes
3.3.1 Access	At grade access and continuous paths of travel to commercial premises	Approved at grade access and paths maintained	Yes
3.3.2 Vehicular Access	Access points and loading not to be located on Avoca St	Access points and loading to be from rear laneway/right-of-way.	Yes
	In accordance with Parking DCP	See Below	See Below
3.3.3 Carparking	At basement or ground level	All parking provided at basement and ground level	Yes
	Not to be visible from main pedestrian	Behind front building line	Yes

<i>Control</i>	<i>Requirement</i>	<i>Provided</i>	<i>Compliance</i>
	thoroughfares		
	In accordance with parking rates in Parking DCP	See Below	See Below
3.3.4 Solar Access	4 hours 9-3pm midwinter	4 hours (+)	Yes
	Maximise northern orientation of living areas	Limited due to north-south site orientation	Yes
	Minimise overshadowing impacts to surrounding residential buildings	No significant impact arising from additional dwelling units	Yes
3.3.5 Privacy & Views	<10m separation then screening to be incorporated	12-15m	Yes
	Views and view corridors to be maintained	Vistas along Avoca/ Albert Street to be maintained	Yes
3.3.6 Sound Insulation	Provide adequate sound insulation	To be conditioned if approved.	Yes by condition to comply with BCA
3.3.7 Safety and Security	Distinction of public/private areas to be provided	Clear distinction between public/private areas as approved	Yes
	Building to address street and provide articulation to the street	Building addresses street and provides articulation to the street as approved	Yes
	Corridor lengths to be minimised	Approved corridor already at minimum and will be maintained for the new dwellings	Yes
3.3.8 Recreation Areas	Each dwelling to be provided with a balcony. Min 10m ² and Min. Dimension of 2m	Balconies to new dwellings meet minimum dimension and area requirements, remainder as approved	Yes
3.4 Building Character	Parapets to be consistent with existing details in the street	New dwellings will be setback so that approved parapets remain consistent in streetscape.	Yes

Parking Requirements (Approved modified DA - s96 "A")	Parking Requirements (Amended DA)	Provided (Amended DA)	Compliance
Commercial 1 space per 40 sqm GFA x 563.44sqm = 14	Commercial 1 space per 40 sqm GFA x 1018.64sqm (comprising 563.44 sqm approved and 455.2 sqm converted) = 25 spaces	Commercial 21 spaces (9 in basement and 12 at grade)	No (shortfall of 4 spaces)
1 resident bicycle space per 3 units = 12 resident bicycle spaces 1 visitor bicycle space per 10 units = 3.6 visitor bicycle space TOTAL = 16 bicycle spaces	1 resident bicycle space per 3 units = 10 resident bicycle spaces 1 visitor bicycle space per 10 units = 3 visitor bicycle space TOTAL = 13 bicycle spaces	2 dedicated bicycle storage areas capable of storing in excess of 15 bicycles	Yes
1 car wash bay per 12 units = 3 (visitor space may double as car wash bay)	1 car wash bay per 12 units = 2.8 (visitor space may double as car wash bay)	3	Yes

The table above indicates that the proposal will have a shortfall of 4 commercial carparking spaces as a result of the increased commercial floor space arising from the conversion of the previously approved dwelling units Nos. 1 – 7 on the first floor level into commercial tenancies.

The applicant's traffic report advises that the proposal's shortfall in carparking is acceptable for the following reasons:

- the shortfall in carparking occurs only for the commercial use. This shortfall is nominal in that it is based on the DCP's business carparking rate of 1 carparking space per 40 sqm of commercial gross floor area when, in fact, the available 21 carspaces can be allocated adequately to the proposed 16 commercial tenancies with smaller tenancies getting 1 car space and larger tenancies having 2 car spaces.
- The site is in close proximity to excellent public transport with an extensive range of bus services being available within close walking distance of the site. As such, the site is ideally located to encourage greater use of public transport and alternate forms of transport such as walking and cycling thereby facilitating reduced levels of car ownership and car usage, particularly for short journeys. In this context, the shortfall in carparking is nominal and considered to be acceptable parameters.

- The site is located in close proximity to a large range of shops, restaurants and services such as banks, post office etc., all of which are within easy walking distance of the site.

The above-listed reasons are considered reasonable especially considering that they will encourage use of non-private vehicles and are consistent with the transport objectives of moderating traffic generation of new developments. In addition, a Section 94 contribution will be levied on the shortfall of carparking spaces (currently \$11,833 per space). Accordingly, there are adequate grounds for justifying the proposed carparking provision.

9.3 Likely impact of the development - S79C(1)(b)

9.3.1 Natural Environmental Impacts

The subject site is located in an existing built-up area within the Randwick Junction commercial centre and, as such, there are no threatened species, populations or ecological communities or habitats that would be affected by the proposed development in the vicinity of the development site.

9.3.2 Built Environmental Impacts

9.3.2.1 Urban Design

The 3 additional dwelling units have been incorporated into the existing approved development without increasing the visual bulk and scale of the approved building which is comprised of a series of well-articulated blocks sympathetic to the scale of surrounding buildings. This has been achieved by providing a generous setback (max 5m) to the 2 one-bedroom dwelling units from Avoca Street. Similarly the three-bedroom roof-top unit will be setback by max. 4.5m from the rear laneway. The use of flat roofs over these additional units also serves to minimise their bulk and scale in the whole development. Accordingly, the “imbedded” nature of the proposed additions is such that they will not be readily apparent from the street level.

It should be noted that during the consideration of the previously approved Section 96 modifications to the approved proposal (see Application History above), the SEPP 65 Design Review Panel supported these Section 96 changes by recommending that “*some of the volume currently shown at the northern end of the courtyard could be relocated to the Avoca Street frontage, which would improve the scale and presentation to this important civic street.*”. The current proposal is consistent with this advice.

In accordance with SEPP 65, the current proposal also has been referred to the Design Review Panel and the Panel’s comments are as follows:

“The Applicant has continued to improve this project since DA approval and the Panel believes this is to the benefit the local area and surrounding residents.

The communal terrace provided within the development has been moved to the third floor, at the recommendation of the Panel, to the northern edge on the Avoca Street frontage.

This not only places the terrace where the building occupants will be able to enjoy a good aspect but it also provides for more solar access into the central courtyard.

The Section 96 (sic – should read DA) applies for an additional 3 apartments, also at the recommendation of the Panel. The proposal is still within the allowable FSR and the distribution of height on the site is considered appropriate by the Panel.

The proposed new apartments are satisfactory with regard to amenity if the recommended extra windows to kitchens, bathrooms and entries are included (some will have to be fire rated). Further improvements to the western 1 Bed + Study apartments would be to continue the balcony past the kitchen as private space.

A redistribution of space within the proposed 3 Bedroom apartment would enable the bathrooms and kitchen on the western side of the apartment to be moved east, therefore improving the amenity and solar access within the central courtyard. The light well voids in the corner of this apartment would also be able to be removed if fire rated glazing is used to provide light to the entries of the units below.

The top roofs could be simplified into single skillion roofs the have reasonable overhangs to protect windows and terraces.”

Overall, the Panel raises no objections to the proposed changes to the approved DA. The amended proposal has incorporated the changes required by the Panel as described above.

The change of use of the seven approved residential apartments (being units 1-7) at first floor level into “commercial offices” will only be an internal change and will have no impact on the external presentation of the building.

9.3.2.2 Heritage Impact

The subject site is located within a Heritage Conservation Area and in the vicinity of existing heritage items including the Coach and Horses Hotel and two to three-storey Victorian style terraces on the opposite side of Avoca Street and on Victoria Street to the east.

The application is accompanied by a covering letter from Graham Brooks and Associates which provides an assessment of the impact of the amendments to the approved development and the surrounding context. The letter also makes reference to a wider Heritage Impact Assessment prepared by the same consultant for the originally approved development. Clause 43(2) of LEP 1998 requires Council when determining a development under the clause, to take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or conservation area, including an assessment of:

- (a) the pitch and form of the roof, if any, and*
- (b) the style, size, proportion and position of the openings for windows or doors, if any, and*
- (c) the colour, texture, style, size and finish of the materials to be used on the exterior of the building.*

Council may grant consent to a development application only after it has considered a report that assesses the impact of the proposal on the heritage significance of the heritage item and its setting.

Council's Heritage Planner has assessed the letter and previous Heritage Impact Assessment prepared by Graham Brooks and Associates in the light of the amendments to the proposal as described in Section 9 above. In particular, the Heritage Planner is satisfied that:

- the enlarged four storey element to Avoca Street will not be prominent to Avoca Street
- the amended proposal (addition of 2 one-bedroom dwellings on the third floor level in the eastern elevation (Avoca Street) and 1 three-bedroom dwelling on the roof level to the eastern elevation) will generally be compatible with adjacent development especially to the Coach and Horses Hotel and Victorian-style heritage terraces on Avoca Street and Victoria Street.
- further details have been provided in the form of a photomontage looking south at the site along Avoca Street in the context of the Coach and Horses hotel. The montage indicates that the proposed new dwelling units on the western elevation will not be readily apparent when viewed from Avoca Street, and will not have any overbearing impacts in respect of the Coach and Horses Hotel.

Overall, the proposed third floor and roof level additions to the approved building has been designed to ensure compatibility with the existing heritage items, heritage conservation area and the immediate streetscape along Avoca Street.

9.3.2.3 Sunlight, Privacy and Views

The submitted shadow diagrams indicate that at 9.00 am in the winter solstice, overshadowing from the approved development will occur predominantly upon Avoca Street and Albert Street with a very small patch of additional shadow arising from the additional dwelling units falling on the boundary of the terraces on the opposite side of Avoca Street. By 12 noon, Albert Street and the existing residential flat building on the opposite southern side of this street will be overshadowed by the approved development. No new shadow will be casted by the additional units at this time. At 3.00pm the approved building will overshadow the eastern end of Albert Street, the rear laneway/right-of-way, and the properties fronting these street. There will be a small patch of overshadowing casted by the additional units onto Albert Street and the dwellings on the northern and southern sides of this street. However, the impact of this overshadowing will be minor and will not detrimentally affect the amenity of these properties. Overall, there will be minimal increase in overshadowing to adjoining properties arising from the proposal as these shadows mainly overlap the shadows casted by the existing buildings on the site.

The orientation of the proposed new dwelling units on the third level in the western elevation towards Avoca Street, and the new penthouse dwelling on the roof level in the eastern elevation towards the rear laneway, is not considered to give rise to any detrimental overlooking of adjoining and neighbouring residential properties given the

separation provided by these roads. Furthermore, in the case of the penthouse unit on the roof level, the previous approved use for this level was for trafficable roof-top terraces (with associated screen planter beds) linked to two dwelling units (Nos. 33 and 34) whereas the current proposal is for a similarly accessible terrace but linked just to the one penthouse unit. This terrace will also have planter beds to provide for screen planting to properties to the east.

The topography of the locality is such that existing buildings surrounding the subject site do not enjoy any significant views that may be obstructed by the proposed development. Accordingly, the proposal will not result in any view loss to neighbouring properties.

9.3.2.4 Traffic and access

The applicant's traffic report advises that the additional three units will increase the traffic generation by less than 1 vehicle/hour in the peak and that the conversion of 7 residential units to commercial tenancies will increase the traffic generation by some 7 vehicles/hour.

The applicant's traffic engineer has also confirmed that the projected additional traffic flows will not have any adverse effects on the operational performance of the right of carriageway.

Accordingly, it is considered that the estimated additional traffic is expected to be accommodated by the surrounding road system, and the application is acceptable in terms of traffic.

9.3.2.5 Ecologically Sustainable Development

The proposed development will be well served by public buses along Avoca Street linking the subject site to the CBD, Railway Square, Bondi Junction, Maroubra Junction, Clovelly and Coogee. The consolidation of the subject site for a mixed residential and commercial use within the established Randwick Junction centre is not only desirable but also in keeping with an increasing trend towards the promotion of public transport usage as a primary means of enhancing ecological sustainability and the reduction of greenhouse gases in the Sydney Region. The proposal would assist in encouraging the use of public transport in line with ESD principles.

It should be noted that the elongated north-south orientation of the subject site has limited the ability to maximise northern solar access. Notwithstanding this, the proposal will incorporate sustainability measures including the use of passive design and sun control elements in the form of awnings, building layout and orientation to maximise solar access and cross ventilation.

The proposal is considered acceptable in relation to Ecologically Sustainable Development issues.

9.3.3 Suitability of the site – S79C(1)(c)

The subject site is located within the Randwick Junction Commercial Centre and is zoned Business 3A. As such, it will be readily suitable for the proposed commercial/retail use.

9.3.4 Any submissions made – S79C(1)(d)

The original proposal was notified and advertised between 18 January 2005 and 1 February 2006. The amended proposal (incorporating the changes under the withdrawn DA 1063/2005) was renotified on 8 March 2006. The issues raised in submissions to this notification/advertising process have been addressed in relevant sections of this report as indicated in Section 5 above.

9.3.5 The public interest – S79C(1)(e)

The proposed development will be in the public interest as it will consolidate the role of the Randwick Junction Town Centre as a centre for services and employment in accordance with the Randwick LEP 1998.

10. CONCLUSION

The proposed addition of 3 dwelling units will not adversely impact on the heritage significance of the existing heritage conservation area nor the surrounding heritage items as identified.

The SEPP 1 objections lodged with respect to the non-compliance with the building height are considered to be well founded in the circumstances. The proposal will not have a significant impact on the amenity of surrounding properties in terms of visual bulk and scale, solar access and privacy.

The application is therefore recommended for deferred commencement 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 33 of the Randwick Local Environmental Plan 1998 (relating to building height) on the grounds that the proposed development complies with the objective of the clauses and will not adversely affect the amenity of the surrounding locality, and that the Department of Planning 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 D/1035/2005 for alterations to the approved mixed use development including provision of 3 additional dwellings units, changes to carpark layout, changing approved residential units Nos. 1-7 at first floor level to commercial offices, provision of 2 adaptable units Nos. 15 and 16 at second floor level, and additional windows and pergolas to improve amenity at 2 Albert Street and 155-161 Avoca Street, Randwick, subject to the following conditions:

Deferred Commencement Conditions

The consent shall not operate until the following amendments and details have been submitted to and approved by the Director of City Planning.

1. Details of the proposed colours, materials and textures (ie. a schedule and brochure/s or sample board) of the proposed additional dwelling units, any additional windows and pergolas are to be prepared and submitted to Council for approval. The colours, materials and finishes of the external surfaces to the proposed additional dwelling units, any additional windows and pergolas are to be compatible the external finishes and colours for the development as lodged in the Section 96 application approved by Council on 27 September 2005.
2. The carspaces in the basement floor level shall be arranged so that residential, visitor and commercial spaces are separated from each other to minimise any potential conflict between the private and public use of these spaces.

Subject to compliance with the deferred commencement conditions, to the satisfaction of the Director of City Planning, 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 DA01 Issue A dated 31/08/2005 and stamped received by Council on 13 December 2005, DA01 Issue A dated 14/11/2005 and stamped received by Council on 22 December 2005, and DA02b Issue C dated 14/11/2005, DA03 Issue C dated 31/08/2005, DA04 Issue C dated 31/08/2005, DA06 Issue C dated 06/06/2005, DA07 Issue C dated 06/06/2005, DA09 Issue C dated 01/09/2005, all stamped received by Council on 2 March 2006, and the application form, and on any supporting information received with the application, except as may be amended by the details/amendments approved pursuant to the deferred commencement conditions and 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. This consent shall operate in conjunction with development consent No. 156/2002 issued on 8 October 2002 and as modified by the Section 96 modifications approved on 9 August 2005 and 27 September 2005.
3. The proposed modification to the ground floor carpark as shown in plan number DA01 Issue A dated 31/08/2005 stamped received by Council on 13 December 2005 shall be deleted from the subject proposal.

4. A 1.0 metre wide planter box capable of accommodating at a soil depth of at least 600mm is to be provided along the entire length of the eastern edge of the terrace to unit 37. This condition is imposed to ensure the privacy of surrounding properties. Details required by this condition are to be included in the Construction Certificate application.
5. The access ramps to the carpark shall comply with Australia Standard 2890.1 2004.
6. The residential and commercial bin storage areas shall be reconfigured to facilitate storage of 30 x 240 litre residential bins and 19 x 240 litre commercial bins whilst providing satisfactory access to all bins. The residential and commercial bins shall be stored in separate rooms. The plans submitted for the construction certificate shall be amended to demonstrate compliance with this requirement.
7. Prior to the issuing of a construction certificate for the proposed works the applicant is to submit to Council and have approved by Council's Manager of Waste Services, a Waste Management Plan detailing waste and recycling storage and disposal for the modified development.
8. All plumbing and drainage pipes, other than rainwater heads, gutters and downpipes, must be concealed within the building.
9. The reflectivity index of glass used in the external façade of the development must not exceed 20 percent. The details and samples of the glass to be used are to be submitted with the colour and material schedule for the approval of Council's Director of City Planning, prior to the commencement of works.
10. The enclosure of balconies is prohibited by this consent.

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

11. 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 \$41321.52
 - b) for the provision or improvement of community facilities \$18270.88
 - c) for townscape improvements \$52969.28
 - d) for car parking \$47332.00
 - e) 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.

The following conditions are imposed to promote ecologically sustainable development and energy efficiency.

12. 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 noted in the construction certificate plans or specifications.
13. External timber or metal framed and brick veneer walls and roofs are to be provided with insulation (i.e. bulk insulation and a reflective building membrane/reflective sarking/foil insulation), having a minimum total thermal resistance R-value of 3.0 in roofs and 1.5 in external walls. The insulation and reflective building membrane is to be installed in accordance with the relevant requirements of the Building Code of Australia and the manufacturers details.

Details of compliance with the requirements for insulation are to be included in the construction certificate application.
14. Hot water service pipes are to be provided with insulation and must also satisfy any relevant requirements of Building Code of Australia and AS 3500.
15. Appliances provided within the development must satisfy as a minimum appliances should satisfy the following energy ratings:
 - Clothes dryers minimum 2.5 star
 - Dishwashers minimum 3 star
 - Air conditioners minimum 4 star
 - Clothes washers minimum 4 star
 - Fridge minimum 4 star

The following conditions are applied to maintain reasonable levels of environmental amenity.

16. The consent of Council must be obtained prior to the erection of any advertising unless exempted under Council's Development Control Plan - Exempt and Complying Development.
17. All loading and unloading associated with the use or operation of the premises shall be carried out within the designated loading dock
18. Development consent is required to be obtained in relation to the specific 'use and operation' of commercial tenancies/occupancies and/or 'shop fit out works', in accordance with the relevant requirements of the Environmental Planning & Assessment Act 1979.

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:

19. 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 operation of the premises and plant and equipment shall not give (LA90), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15 min and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

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

20. The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of 'on-the-spot' penalty infringements or service of a notice and order by Council.

21. 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.
22. 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.
23. Prior to the commencement of any building works, the person having the benefit of the development consent must:-
- i) appoint a Principal Certifying Authority for the building work, and
 - ii) appoint a principal contractor for the building work, or in relation to residential building work, obtain an owner-builder permit in accordance with the requirements of the Home Building Act 1989, and notify the Principal Certifying Authority and Council accordingly in writing, and
 - iii) unless the person having the benefit of the consent is the principal contractor (i.e. owner-builder), notify the principal contractor of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority, and
 - iv) give at least two days notice to the Council, in writing, of the persons intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

24. The building works must be inspected by the Principal Certifying Authority (or another certifying authority if the Principal Certifying Authority agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The Principal Certifying Authority must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 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 details of compliance with Council's consent is to be maintained by the Principal Certifying Authority. Details of critical stage inspections carried out and copies of certification relied upon must also be forwarded to Council with the occupation certificate.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "Notice of Critical Stage Inspections", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority, to carry out the required inspection, before carrying out any further works.

25. A sign must be erected and maintained in a prominent position on the site, which contains the following details:
- name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)
 - name, address and telephone number of the Principal Certifying Authority,
 - a statement stating that "unauthorised entry to the work site is prohibited".
26. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

27. Prior to the issuing of an interim or final occupation certificate, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

28. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.

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

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

29. A Certificate of Adequacy prepared by a professional engineer shall be submitted to the certifying authority (and the Council, if the Council is not the certifying authority) prior to occupation of the building, certifying the structural adequacy of the building and that the building works satisfy the relevant structural design requirements of the Building Code of Australia.

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:

30. 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 made available to the Council officers and all building contractors for assessment.
31. All building, demolition and associated site 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.

32. The use of any rock excavation machinery or any mechanical pile drivers is restricted to the hours of 8.00am to 5.00pm (maximum), Monday to Friday inclusive and from 8.00am to 1.00pm on Saturday, to minimise the noise levels during construction and loss of amenity to nearby residents.
33. Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the Protection of the Environment Operations Act 1997 must be satisfied at all times.
34. Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified consultant is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.
35. Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.
36. Public safety and convenience must be maintained at all times during demolition, excavation and construction works.
37. The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.
38. 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.
39. 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, soil and debris at all times.
40. Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council, 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 Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy. Applications to place a waste container in a public place can be made to Council's Building Services section.

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

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

Dust control measures and practices may include:-

- Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).
 - Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.
 - Installation of a water sprinkling system or provision hoses or the like.
 - Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.
 - Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.
 - Revegetation of disturbed areas.
42. 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.
43. Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line 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, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system

44. A warning sign for sediment control, 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.
45. A temporary timber crossing is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council, unless access is via an existing concrete crossover.
46. 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.

47. 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.
48. Public safety must be maintained at all times and 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.

Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

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 site fencing, hoardings 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.

49. 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.

50. A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip (greater than 3m in length) or any container or other article.

ATTACHMENT/S:

Nil

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
DAVID ONGKILI
ENVIRONMENTAL PLANNING OFFICER

Director, City Planning Report 29/2006

SUBJECT:	8-10 WOOD STREET, RANDWICK
-----------------	----------------------------

DATE:	5 April, 2006	FILE NO:	DA225/2004
--------------	---------------	-----------------	------------

REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Attached is Development Application Report No. DA 225/2004 for Section 82A Review of the decision to refuse development consent to the application seeking to make alterations & additions to the existing boarding house & change of use to a residential flat building comprising 7 x 2 bedroom dwellings, associated garaging & strata subdivision.

RECOMMENDATION:

That Council consider and determine the Development Application in accordance with the recommendation contained in the attached report.

ATTACHMENT/S:

Development Application Report dated 30 March 2006.

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
TOM HUTCHISON
ENVIRONMENTAL ASSESSMENT OFFICER

Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE: 30 March, 2006 **FILE NO:** DA225/2004

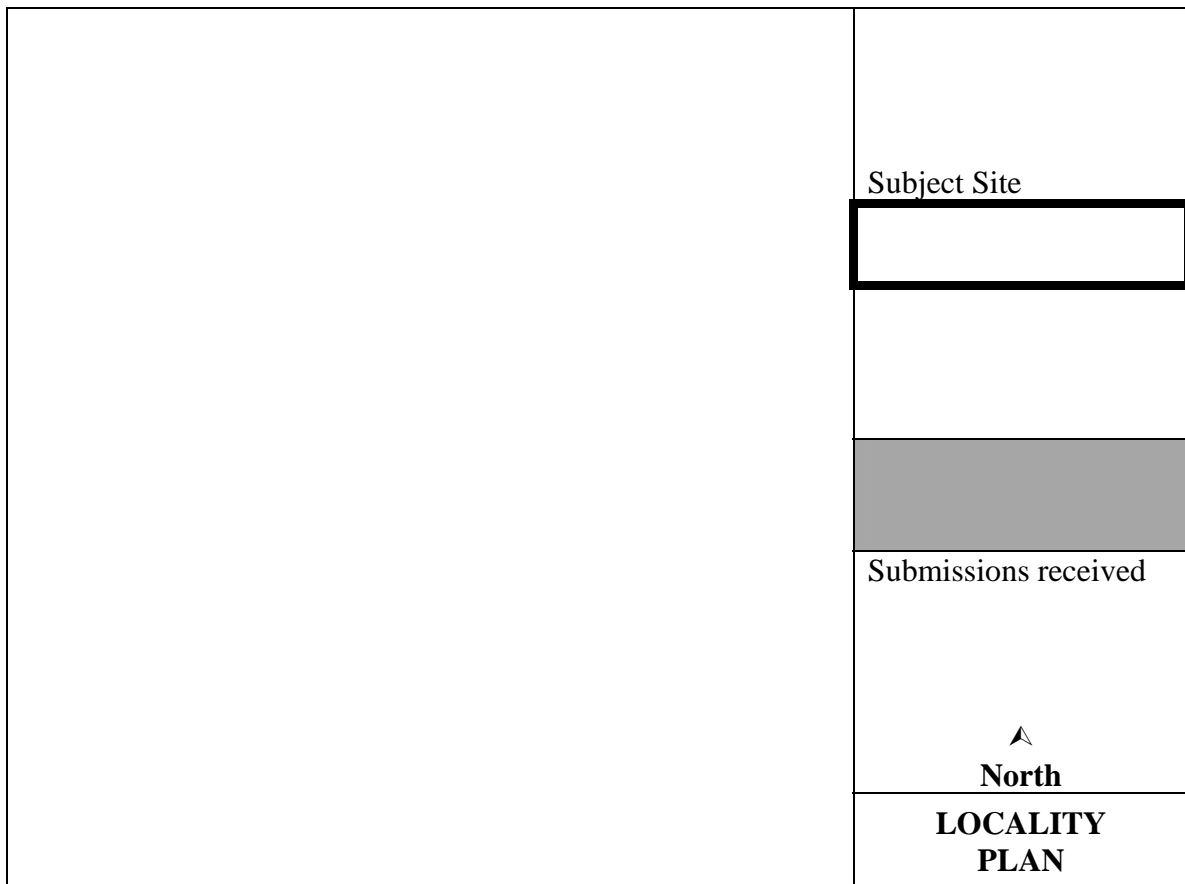
PROPOSAL: Section 82A Review of the decision to refuse development consent to the application seeking to make alterations & additions to the existing boarding house & change of use to a residential flat building comprising 7 x 2 bedroom dwellings, associated garaging and strata subdivision.

PROPERTY: 8-10 Wood Street, Randwick

WARD: North Ward

APPLICANT: G & I Selia

OWNER: Mr G Selia



1. EXECUTIVE SUMMARY

The application has been referred to Council for determination at the request of Councillors Bradley Hughes, Murray Matson and Margaret Woodsmith.

The subject site is located on the eastern side of Wood Street between Eulalie Avenue and Rae Street, Randwick. It is located within the St Marks Heritage Conservation Area. The site has a 12.2 metre frontage to Wood Street, a 39.4 metre alignment to the side Lane, a 12.2 metre rear alignment to Wood Lane and a total site area of 692.9m². The surrounding area is characterised by a mixture of attached and semi-detached dwelling houses and some residential flat buildings.

The subject application is an application under Section 82A of the Environmental Planning and Assessment Act, 1979, to review Council's previous determination (refusal) of the development application.

The application was notified to surrounding properties and was advertised in the local newspaper. Three submissions were received raising issue with parking and manoeuvrability; heritage; amenity to lower level units; and loss of privacy.

The main planning issue is the NSW Department of Planning's concurrence requirements in respect of SEPP 10 – Retention of Low-Cost Rental Accommodation.

The recommendation is for approval subject to conditions.

2. THE SUBJECT SITE AND SURROUNDING AREA:

The subject property is located on the eastern side of Wood Street on the northern corner of Wood Lane in Randwick. The site is a corner allotment that has three street frontages. The southern side of the site measures 39.415 metres, the primary frontage to Wood Street measures 12.19 metres, likewise the third frontage to the rear of the site, to Wood Lane, is 12.9 metres long. The northern side boundary adjoins a two-three storey dwelling house (6 Wood Street) and measures 39.625 metres. The total site area is 692.9m². The site is currently occupied by a two-three storey boarding house containing 10 rooms and a single garage to the rear boundary.

Development in the locality is comprised of a variety of residential uses. To the south of the site across Wood Lane (West) are garages of and rear yards of properties which address Rae Street. Across Wood Lane to the east are three storey residential flat buildings which address Dutruc Street. Opposite the site to the west, across Wood Street are 1-2 storey dwelling houses including a row of attached two storey terraces. Adjoining the site to the north is a 2-3 storey brick dwelling, with detached garage and roof terrace to the rear, number 6 Wood Street. The site is located in the St Marks Heritage Conservation Area.

3. HISTORY

On 31 March 2004, a development application was lodged that proposed to make external and internal alterations and additions to existing boarding house and change of use to residential flat building comprising 7 x 2 bedroom units and associated garaging and strata subdivide.

The original draft assessment of the application concluded that the proposal was acceptable and could be approved subject to conditions. However, on 20 June 2005, the DIPNR refused to grant its concurrence for the proposal under the provisions of SEPP 10. Consequently, on 30 June 2005, the application was refused for the following reasons:

1. *The application fails to meet the requirements of SEPP 10- Retention of Low Cost Housing in that:*
 - *All of the low cost dwellings on the site will be lost as a result of the development and that represents a major reduction of low-cost rental accommodation on site.*
 - *The applicant has not demonstrated under the provisions of SEPP 10 that there is sufficient comparable accommodation available in the locality to offset, or 'absorb' the likely loss of low-cost rental accommodation.*
 - *The subject site is well located for a low-rental residential building as it enjoys a close proximity to employment opportunities, public transport and community services. It is considered that the proposal, if realised, will bear significantly greater negative than positive social and economic effects upon the general community.*
 - *Inadequate measures have been proposed by the applicant to assist those residents (i.e. all residents) likely to be displaced if the proposal is realised.*
 - *Approval of the development could contribute to the cumulative decline of low-cost rental accommodation. This in turn raises displacement problems for existing tenants and major socio economic impact issues in the area.*
 - *The annual return on investment for the property is 6.63%, which is above the 6% annual return stipulated within the SEPP 10 Guidelines as the financial viability threshold of boarding houses. Therefore, with regard to the provisions of Clause 7(9) (b) and the SEPP 10 Guidelines, the subject building can continue to be used for low-cost rental accommodation because its continued use as a boarding house is considered financially viable.*
2. *The application fails to satisfy the objectives under Clause 2 of Draft LEP 22 – Affordable Housing, specifically:*
 - *2(1) to encourage the provision of housing mix and tenure choice, including affordable housing, in the City, and*

- *2(m) to encourage the retention of affordable housing in the City in a variety of types and tenures.*
3. *The application fails to demonstrate that it satisfies the requirements of Clause 34 of Draft LEP 22 – Affordable Housing, specifically:*
- (e) whether arrangements have been made or will be made to assist residents who may be displaced by the development, and*
 - (f) the availability of other buildings suitable for use as affordable housing, having regard to their location, type, size, rent levels and available services, and*
 - (g) any adverse social and economic effects caused by the development on affordable housing stocks and on households in the local community on very low, low or moderate incomes who are spending 30% or greater of gross incomes on rent or home purchase expenses.*

4. THE PROPOSAL

The development application proposes to make internal and external alterations and additions to the existing boarding house to create 7 x 2 bedroom dwellings and four carparking spaces to the rear of the site with access off Wood Lane. The applicant contends that the development is for 5 x 2 bedroom and 2 x 1 bedroom units, however the attic areas described as ‘utility/ storage rooms’ in the Statement are shown with beds in the plans and an ensuite is provided to the attic space of Unit 7. The proposal has been assessed as being a 7 x 2 bedroom unit development.

The applicant also proposes external improvements to the site including a roof terrace above the four car garage at the rear of the site, decks to the rear of the building at first and second floor level and new landscaping to the front and rear of the site. The street elevation of the building is to be renovated including reinstatement of some original features such as the opening of first floor balconies that have been enclosed.

The subject application is to review Council determination of the development application under Section 82A of the EP&A Act. Although the details of the proposed development remain the same under the subject application to review, the applicant has been negotiating with the, now, Department of Planning, to provide a contribution to offset the loss of low-cost housing. The applicant has also stated that he would be willing to provide extended notice to vacate for residents (i.e. 50 days) and provision of a one-off lump sum payment of \$500 to each of the residents to assist then in relocation to alternative accommodation.

5. STATUTORY REQUIREMENTS UNDER SECTION 82A

Section 82A of the Environmental Planning and Assessment Act 1979, as amended, enables an applicant to request a Review of a Determination of a Development Application or conditions of Development Consent. Council may review the

Determination, and as a consequence of the review, may confirm or change the Determination.

The proposal constitutes essentially the same development and is, therefore, assessable under Section 82A.

6. COMMUNITY CONSULTATION:

The owners of adjoining properties were notified of the proposed development on the 16 November 2005. As a result of this notification, three submissions were received from the following properties:

- BC and EM Noonan – 17 Rae Street
- Mary-Louise White – 3 Wood Street
- Margaret L Varady – 15 Rae Street

The following issues were raised in the submissions:

- Lack of parking;
- Heritage concerns insofar as changes to the façade of the building;
- Manoeuvrability into proposed garages;
- Amenity to lower level of units 1 to 4 of the proposed development; and
- Loss of privacy to Rae Street properties.

The following comments are made in response to each of the above issues:

- A traffic and parking study specific to the site was submitted with the development application that indicates the development will not have a significant impact;
- Council's Heritage planner reviewed the documentation during the development application and has agreed that the proposal will be acceptable provided that certain changes are made in respect to window/door openings in the façade of the building (see Heritage Planners comments) and appropriate conditions imposed with any consent;
- The garage has been setback a metre from the eastern boundary of the site, increasing the area at the northeastern junction of the site available for visibility and manoeuvring;
- The Design Review Panel has reviewed the plans and the addition of windows and removal of primary living areas from the basement level has improved amenity such that the amenity of the proposal is considered satisfactory; and
- The development overlooks the garages of these properties and will not result in significant privacy impacts due to the separation between the sites provided by Wood Lane (West) and the existing garage structures to the rear of these properties.

7. TECHNICAL OFFICERS COMMENTS

Except the comments from the NSW Department of Planning, all the following referral comments were received during the assessment process of the original development application.

Development Engineers

The Development Engineers have provided the following comments in relation to the subject application:

An application has been received for conversion of the existing boarding house into 7 units with parking for 4 vehicles and associated strata subdivision.

Landscape Comments

There are two (2) Sapium sebiferum (Chinese Tallowoods) on Council's nature strip at the front of the site. They are both approximately 4-5 metres in height and appear in reasonable condition. They should remain largely unaffected by the proposed works; however, the applicant will be required to ensure their retention as part of this proposal.

In the rear yard against the northern boundary, there is one Callistemon viminalis (Bottlebrush) of approximately 6 metres in height, and to the east, one tree (species undetermined) of about 5 metres in height. Both trees appear in reasonable condition and provide effective screening between this site and the adjacent property to the north. Given the proximity of the proposed paving, decking and pergolas to these trees, protection measures will be necessary during the course of the proposed works to ensure their retention as is shown on the plans.

Still in the rear yard, against the southern boundary, there is one Persea americana (Avocado) of approximately 5 metres in height, which appears in average condition. Although it is shown for retention on the plans, approval is granted for the removal of this tree subject to a suitable replacement being provided in its place.

In the neighbouring property to the north, close to the common boundary, there is one Eucalyptus nicholii (Willow Leafed Peppermint), of approximately 8-10 metres in height. This tree appears in good condition and is covered by Council's Tree Preservation Order. This tree should remain largely unaffected by this application; however, protection measures will be necessary to ensure the applicant retains this tree as is shown on the plans.

Still in this neighbouring rear yard, but to the east, there is one Agonis flexuosa (Willow Myrtle) of approximately 6-7 metres in height. This tree appears in good condition and is covered by Council's Tree Preservation Order. This tree should remain largely unaffected by the proposed works;

however, protection measures will be necessary to ensure the applicant retains this tree as part of the proposal.

Drainage Comments

On-site detention is not required for this development however site stormwater shall be piped to a sediment/silt arrester pit that drains to a minimum 5 metre square base infiltration area. An overflow pipe shall be provided from the silt arrester pit that drains to Council's kerb and gutter.

Traffic Comments

The City Services Dept in its prelodgement report for the subject site requested the applicant submit turning manoeuvre diagrams for vehicles entering and exiting the proposed carspaces. The City Services Dept has requested the diagrams as the applicant has not complied with Council's DCP requirement to have garages in laneways setback 1.00m from the property boundary. The turning manoeuvre diagrams shall accurately plot the kerb line on the other side (east side) of the rear lane.

As mentioned in the prelodgement report the applicant may consider making the garages in the rear lane 2 double car garages so as to improve turning manoeuvres.

Conditions 55 to 88, as required by the Development Engineers, have been included in the recommendation section of this report. The submitted plans show two double garages in accordance with the recommendation.

Manager, Environmental Health and Building

The Manager, Environmental Health and Building has provided the following comments in relation to the application:

The Proposal

The proposal provides for the alteration and addition of the existing boarding house to a residential dwelling comprising of 7 residential units and garage parking at the rear.

BCA Building Classification

- *Class 2- Residential units*

Key Issues

Site Management:

No information in relation to construction site management has been provided with the application to address issues such as, the location of stock piled material or the storage and disposal of excavated materials,

sediment and erosion control, public safety, perimeter safety fencing and construction management.

Standard conditions have been included in the consent to address a range of construction site management issues.

Building Code of Australia (BCA):

Full details of compliance with BCA and fire safety provisions are not included in the DA documentation and therefore further detailed information would need to be incorporated in the documentation for a construction certificate.

Conclusion:

No objections are raised in relation to the proposed development, subject to the following conditions being included in any development consent.

Conditions required by the Building Section have been included in the recommendation section of this report.

Heritage Planner

Council's consultant Heritage Planner has made the following comments in relation to the application:

Site and Surrounding Area: *The subject site is located in the St Marks Conservation Area. It features a large modified two storey Victorian villa that is one in a group of three. The dwelling is adjacent to a side lane and has rear lane access. The dwelling has been heavily modified in its conversion to a boarding house and there has been a loss of detail and intrusive alterations such as the enclosure of verandahs. The building has retained its principle form, materials, fenestration and character as well as its relationship to the other dwellings in the street.*

Significance: *The dwelling makes a positive contribution to the conservation area as a representative example of a late Victorian villa that is part of a group of three. Alterations to the dwelling and the group have impacted on the significance of the place.*

Proposal: *It is proposed to make alterations and additions to the existing building converting it from boarding house accommodation featuring bed sit units to a more modern arrangement of studio, one and two bedroom apartments. The proposal will involve refurbishment works to the façade, a rear wing addition, new verandahs to the rear elevation and a new garage to the rear lane.*

Submission: *A Heritage Impact Statement was submitted with the development application. The HIS notes that the proposal has been designed to retain existing fabric and enhance or restore it and that the impacts of the proposal are minimal and reasonable in heritage terms in*

the context of the conservation area. It also states that the proportions of new windows are in keeping with the period of the original building.

Assessment: *Generally, the proposal is considered to respect the significance of the site and its contribution to the conservation area. The internal alterations will be largely unseen and are considered reasonable given the modifications that have already occurred to the building and also provide the opportunity to enhance the contribution of the dwelling to the area through the remediation of intrusive alterations. The addition to the rear wing is appropriate in its contemporary form and materials which allows the existing form to be read. The proposed rear balconies are suitable in form and materials. The refurbishment of the façade will enhance the significance of the place, although the new bi-fold doors to the ground floor are considered to be intrusive and are not sympathetic to the building in proportion as it results in a large void to the elevation which will be visible from the street. The rear lane garage is appropriate in the context.*

Recommendations: *The following conditions should be included in any consent:*

- *It is recommended that the bi-fold doors on the ground level be changed to a pair of French doors similar to those proposed for the first floor and are to be aligned with those of the first floor. Amended drawings are to be submitted to and approved by Council's Director of Planning and Community Development, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- *The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building/existing buildings in the heritage conservation area. 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 and Community Development, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- *Details of the proposed paint scheme are to be submitted to and approved by Council's Director of Planning and Community Development, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. Unpainted surfaces, eg-brickwork/stonework are to remain unpainted.*
- *Any sandstone kerbing to be removed shall be removed under the supervision of Council's Heritage Planner and the sandstone shall be stored in Council's care.*

Deferred Commencement condition No.1 and Condition of consent No.30, as recommended by the Heritage Planner, have been included in the recommendation section of this report. The submitted plans show that the front elevation provides for french doors in accordance with the heritage planner's advice (see first bullet point).

Design Review Panel

The application was referred to Council's Design Review Panel at prelodgement stage and for DA comment to the meeting of 5th July 2004. The Panel provided some clear advice regarding amendments to improve the design. The following comments were made:

1. *Relationship to the Context of the Proposal*

2. *The Scale of the Proposal*

3. *The Built Form of the Proposal*

The southern elevation would be more appropriate without lines on the wall as indicated on plans. This would reduce the fragmentation of the southern elevation.

The external privacy screens indicated on the street elevation will require careful detailing so as not to detract from the character of the building.

4. *The Proposed Density*

The reduction in unit numbers and improved internal planning is supported.

5. *Resource and Energy Use and Water Efficiency*

6. *The Proposed Landscape*

A more developed landscape plan is required. The hard landscaping indicated on the basement level plan displays inadequate design and spatial qualities.

7. *The Amenity of the Proposal for its Users*

A larger window in bedroom 2 of unit one would provide more appropriate levels of light and ventilation.

BCA assessment required in regard to fire safety.

Optimise day lighting opportunities by incorporating clerestory windows, skylights etc, particularly to the entry spaces. Fixed

windows above entry doors may be an option for improving light levels.

Some internal rooms and circulation spaces could be improved by changing door swings.

The chamfered decks will reduce amenity to the users, particularly to unit six and seven. Decks should be ideally 2.5 metres deep and where possible three metres wide where there is no direct connection to the garden. We suggest that decks should all be of a similar depth.

8. *The Safety and Security Characteristics of the Proposal*

9. *Social issues*

10. *The Aesthetics of the Proposal*

As previously noted, French doors to the street elevation of Unit 2 would be a more appropriate response to the building and its context.

SUMMARY AND RECOMMENDATIONS

The panel considers this application has improved and that if the applicant addresses all the issues as outlined above, in association with the assessing planner, there is no need to see the application again.

The submitted plans satisfy all of the Panel's concerns with the exception of the shape of the balconies to units 6 and 7. The applicant has advised that the chamfer (truncated corner of the balconies) has been introduced to allow for solar access to the balconies and rear elevations of units below. It is considered that this is a good argument and that the balconies, as proposed, will provide good amenity to users.

The development is considered satisfactory with regard to SEPP 65.

Department of Planning

The Section 82A application was referred to the Department of Planning on 24 November 2005. On 15 February 2006, the Department granted its concurrence based on negotiations with the applicant. The following condition, which is to be included with any consent, shows the result of the negotiations:

The one-off monetary contribution of \$67,080.00 ('Contribution') proposed by DA 225/2004 (as amended) for the purposes of mitigating the proposed loss of low-cost rental accommodation, shall be dealt with as follows:

(a) The contribution is to be paid by the Owner to Randwick City Council

(‘Council’) in one complete payment to Council’s satisfaction prior to the Construction Certificate being issued; and

(b) Council shall use the contribution solely for the purpose of developing affordable housing in the vicinity of the land to which the DA is subject.

Payment of the above contribution was discussed with Council’s Manager Strategic Planning prior to the concurrence being granted by the DoP. It was determined that the contribution could be accepted by Council to contribute to funding for Council’s new affordable housing scheme.

On the basis of the above, it is considered that reason for refusal No.1 has been satisfactorily addressed.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The site is zoned Residential 2C under Randwick Local Environmental Plan 1998 and the proposal is permissible with Council's consent.

The proposal has been assessed in relation to compliance with the following controls:-

- Randwick Local Environmental Plan 1998.
- State Environmental Planning Policy No.10 – Retention of Low-Cost Rental Accommodation
- Environmental Planning and Assessment Act 1979 as amended.
- Building Code of Australia.

9. ENVIRONMENTAL ASSESSMENT

This section undertakes an assessment having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

9.1 Environmental Planning Instruments

Randwick Local Environmental Plan 1998

The following clauses of the RLEP 1998 have been considered during the assessment of the proposal:

<i>CLAUSE</i>	<i>REQUIREMENT</i>	<i>PROVIDED</i>	<i>COMPLIANCE</i>
21 – Subdivision	Requires Council Consent	Consent sought – draft strata plans provided	Yes
31 (2)– Landscape Area	50% of site area (240.8m ²)	37% (176.5m ²)	No ¹
31 (3)- Landscaped Area over	Not to exceed 50% of landscaped area	0% of landscaped area requirement	Yes

CLAUSE	REQUIREMENT	PROVIDED	COMPLIANCE
basements (maximum)	requirement (25% of site area) (120.4m ²)	(0m ² over garages – roof terrace not included in landscaped area)	
32 (2) – FSR	0.65:1 (313.04m ²)	1.21:1 (585.61m ²)	No ¹
33 (1)– Building Height	12m	9.4m (new work only – no change to existing building)	Yes
33 (3)- External Wall Height	10m	9.4m (new work only – no change to existing building)	Yes
46 – Development in the vicinity of Heritage Item or Conservation Area	Must consider impact on heritage of surrounding items.	Will not detract from setting of conservation area	Yes

¹Objection under SEPP No. 1 provided in support of non-compliance

When the development application was being considered, draft amendment No.22 to LEP 1998 was awaiting gazettal. That Amendment has since been gazetted and the LEP has been amended. The relevant parts of the LEP that have been amended follow and are shown in bold, where relevant, in the following paragraphs.

Clause 2

- (a) *to consolidate and review existing planning controls in the City of Randwick, and*
- (b) *to reduce the number of zones into which land is divided, and*
- (c) *to create a broad framework of planning controls within which the Council may prepare development control plans to formulate and adopt more detailed policies and guidelines relating to matters of significance for local environmental planning, and*
- (d) *to ensure that development is carried out in such a way as to allow the economic and efficient provision of public services and amenities, and*
- (e) *to ensure the conservation of the environmental heritage and aesthetic character of the City, and*
- (f) *to facilitate and encourage community consultation and participation in the planning process, and*
- (g) *to promote, protect and enhance the environmental qualities of the City, and*
- (h) *to recognise the importance of ecological sustainability in the planning and development processes, and*

- (i) to recognise the responsibilities of accountability in the planning processes, and*
- (j) to enhance individual and community economic well-being and welfare and safeguard the welfare of future generations, and*
- (k) to encourage consideration of social consequences when decisions are made in the implementation of this plan, and*
- (l) to encourage the provision of housing mix and tenure choice, including affordable housing, in the City, and***
- (m) to encourage the retention of affordable housing in the City in a variety of types and tenures.***

By virtue of the fact that the Department of Planning has reached an agreement with the applicant that involves payment of a Contribution to Council for allocation to affordable housing projects in the Council area, it is considered that approval with any such condition would be consistent with objectives (l) and (m) above.

Clause 12(1)

The objectives of Zone No 2C are:

- (a) to allow a variety of housing types within residential areas, and*
- (b) to allow a range of community facilities to be provided to serve the needs of residents, workers and visitors, and*
- (c) to enable residential development in a variety of medium density housing forms where such development does not compromise the amenity of surrounding residential areas, and*
- (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, and*
- (e) to enable a mix of housing types to encourage housing affordability.***

The proposal is considered to be consistent with objective (e) - See comments under assessment of clause 2. The proposal is also not inconsistent with the other relevantly applicable objectives of the zone, in that the built form of the proposal will contribute to the aesthetic character of the area whilst not adversely impacting on the social amenity of surrounding residential properties.

Clause 34(3)

When determining an application required by this clause, the Council may grant its consent only where it has made an assessment of and considered the implications of:

- (a) the need to retain the particular type of housing in relation to any identified needs of the local area, and*

- (b) the accumulated impact that the loss of the building or place for use as a boarding house will have on the supply of that type of housing in the local area, and*
- (c) any building and fire safety requirements, and*
- (d) the financial viability of the continued use of the building or place as a boarding house, and*
- (e) whether arrangements have been made or will be made to assist residents who may be displaced by the development, and*
- (f) the availability of other buildings suitable for use as affordable housing, having regard to their location, type, size, rent levels and available services, and*
- (g) any adverse social and economic effects caused by the development on affordable housing stocks and on households in the local community on very low, low or moderate incomes who are spending 30% or greater of gross incomes on rent or home purchase expenses.*

The applicant has undertaken a survey of comparable accommodation in the surrounding area and has presented the results. The survey has been undertaken in accordance with the requirements of the SEPP 10 Guide. The survey demonstrates that there is adequate comparable accommodation available to absorb the increase in demand created by tenants displaced from the subject boarding house.

The applicant has also stated that he would be willing to provide extended notice to vacate for residents (i.e. 50 days) and provision of a one-off lump sum payment of \$500 to each of the residents to assist them in relocation to alternative accommodation. These will be imposed as conditions of any consent issued.

As stated earlier, the applicant has been negotiating with the, now, Department of Planning, to provide contribution to offset the loss of low-cost housing if the proposal is realised. This will also be included as a condition of any consent.

Therefore, in summary, the existing tenants will be given adequate time to find alternative accommodation in a market that has adequate comparable accommodation. They will be provided with a contribution towards relocating, which may fully fund their removal expenses. The loss of the existing boarding house will be off-set by the payment of the contribution towards other low-cost housing scheme(s) in the Council area.

Therefore, it is considered that the proposed development, with those inclusions, adequately satisfies the relevant assessment criteria of clause 34.

Clause 46 – Development in the vicinity of heritage items

Across Wood Lane (West) to the south of the site are the garages and rear boundary of heritage items at 11A-23 Rae Street. The alterations and additions to the existing building on the site have been contained within the existing building envelope or located to the rear of the site. This has minimised the impact of the development on the heritage items to the south of the site. The significance of the items is stated in the LEP as being that they form part of an historic residential streetscape c.1887. Due to the subdivision pattern in the area, with the rear boundary of these Rae Street properties being closest to the subject site, the development will not affect the Rae Street streetscape nor the significance of the items.

The site is located within the St Marks Heritage Conservation Area. It is considered the improvements to the appearance of the existing building will make a positive contribution to the Conservation Area. Council's Heritage Planner has reviewed the plans and is satisfied the development will not impact on the significance of nearby heritage items nor the heritage conservation area as a whole.

State Environmental Planning Policy No.1 – Development Standards

Density

The FSR of the proposal is 1.21:1 (585.6m²) and does not comply with the permissible FSR under clause 32(2) of the RLEP 98 for a development on the site, being 0.65:1 (313.04m²). The applicant has submitted an objection under SEPP No. 1 that compliance with the standard is unreasonable and unnecessary in the circumstances of the case for the following reasons:

Clause 32(2) of Randwick LEP 1998 imposes a maximum FSR of 0.65:1 at the site (as the site is less than 700m² in area). This allows a gross floor area (GFA) of 313.04m² at the site. The existing building has a GFA of 540.1m² which represents an FSR of 1.12:1. As it presently stands, the existing development fails to achieve the maximum 0.65:1 FSR requirement.

The proposed development incorporates only 42.7m² of additional floor space, resulting in a GFA of 582.8m² and an FSR of 1.21:1. Importantly, it is noted that 31.3m² of the additional floor space is contained within the existing roof form as utility space, and does not have any impact on the scale, height, bulk or appearance of the existing building on the site.

The altered building, in terms of its height, size, bulk and scale is generally consistent with that of the existing building, as the majority of the additional GFA is contained within the existing building envelope.

Additionally, the proposal does not give rise to any unreasonable adverse environmental impacts in relation to adjoining properties in terms of loss of privacy, overshadowing and general overbearing impacts as discussed in the Statement of Environmental Effects submitted with the Development Application.

Having regard to the above, compliance with the development standard is considered both unreasonable and unnecessary in the circumstances of the case.

The proposed development is of a height, size, bulk and external appearance that is

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 0.65:1. The reuse of an existing building envelope by the proposal has minimised impacts such as overshadowing and visual bulk and scale and indicates the proposed density can be accommodated on the site without adverse impact.

From Wood Street the building appears as a two storey structure. The location of the basement below street level provides for additional floor space without increasing building bulk. Similarly, the attic area will be concealed within the existing roof space of the building and will increase the gross floor area by approximately 30m² but not result in any increase in the visual bulk or amenity impacts such as overlooking or overshadowing. The above ground portion of the development exclusive of the attic space has an FSR of approximately 0.785:1, or a gross floor area 65m² in excess of Council's statutory requirement. This degree of non-compliance is considered to be minor in terms of bulk and scale and amenity impacts.

Development to the north and east of the development site is typical of the 2(c) zoning, being comprised of large residential flat buildings with an average height of 3 storeys. The development proposed at 2 storeys (plus basement and attic areas) is of a compatible density and a reduced height and bulk when compared to these developments. The building has a traditional residential form that appears as a large house further reducing the scale of the proposal. The elevations of the building are well-articulated with balconies and projections. 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 and the location of the majority of the non-compliance in the basement and attic areas.

The increase in density 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 2C zone. The provision of units within an existing residential building in a heritage conservation area will increase the variety of residential accommodation available in Randwick City and provide a new and viable use for an

existing building which contributes positively to the streetscape and conservation status of the area.

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, height and residential amenity. It is considered that SEPP 1 objection is well founded and should be supported.

Landscaping and Private Open Space

The development provides 37% (176.5m²) of the site area as landscaping. This does not comply with the statutory requirement under clause 31(2) of the RLEP98 of 50% (240.8m²). This is exclusive of the rooftop garden over the garage which provides an addition area of 70m² but cannot be included in landscaped area calculations under the LEP definition. None of the required landscaping occurs over basement areas, which meets the requirement under clause 31(3) of the LEP, limiting landscaping over basements to less than 50% of the required landscaping. The applicant has submitted an objection under SEPP No. 1 that compliance with the standard is unreasonable and unnecessary in the circumstances of the case for the following reasons:

Clause 31(2) of Randwick LEP 1998 imposes a minimum landscape area standard of 50% (240.8m²) at the site. The existing building has a total landscaped area of 206.9m² (42.9%). As it presently stands, the existing development fails to achieve the minimum 50% requirement.

The existing landscaping on site is in poor conditions and relatively ad-hoc in nature. The area is not visually attractive and does not encourage its use or patronage. The subject proposal seeks to formalise and improve the landscaped area on the site to improve its useability, functionality and visual appeal.

The proposal provides 176.5m² (36.6% of site area) as landscaped area and an additional 71.7m² in the form of the terrace over the proposed garages.

Although not strictly in accordance with the definition of landscaped area, as contained in LEP 1998, it may be argued that the terrace above the garages should be included as landscaped area due to it being one of the primary common open space areas proposed for the site. In this regard, if the terrace above the garages were included, the site would contain 248.2m² of landscaped area, being more than the 50% requirement.

It is reasonable to assume that one of the intents of the landscaping standard is to ensure that there is sufficient opportunity to provide "soft" landscaping

(i.e: planting) within the site. All 176.5m² of landscaped space will be able to accommodate planting and assist in stormwater management.

In conjunction with the discussion above, the standard is unreasonable and unnecessary in this instance as:

- *The proposal provides landscaping on the site where currently very little exists;*
- *The non-compliance with the standard will have no adverse impacts in relation to stormwater management;*
- *The site will maintain a visual balance between the built form and areas of landscaping;*
- *Each of the units contained within the proposed development will have private open space areas, in the form of a balcony and/ or courtyard; and*
- *Usable communal open space is provided in the rear of the site and will be accessible to all future occupants of the development.*

Having regard to the above, compliance with the development standard is considered both unreasonable and unnecessary in the circumstances of the case.

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 will provide 37% of the site as landscaped area and fails to meet the statutory standard of 50% by approximately 65m². The existing building on the site results in a landscaped area of 42.9% and also fails to comply with the statutory standard. The development represents a reduction of 5.9% on the existing situation. The proposal is considered to improve the landscape presentation of the site as currently the area is not landscaped in a formal way although it does contain a few larger trees covered by Council's TPO.

The proposal provides adequate areas of communal and private open space, which adds to the amenity of the units. The deep soil landscaped area has been concentrated towards the rear of the site, which provides for substantial plantings to the edges of the site to be maintained. There is no landscaping provision over basement areas and pervious paving has been used wherever possible to maximise opportunities for stormwater infiltration. Landscaping has also been well integrated into the street setback which improves the appearance of the site from the street in accordance with the objectives of the landscaping standards. The objectives of clause 31(2) will be met by the development despite non-compliance the statutory standard.

The landscape plan lodged with the application indicates shrubs and trees ranging from 1.0 metre to 6.0 metres in height and incorporates native species and existing trees on the site into the design.

Two of the units have access to ground level private open space and the site is proposed to be well landscaped to all boundaries to provide outlook and amenity

to residents and the street. The landscaping plans have been revised to minimise hardstand surfaces and utilises rooftop landscaping to maximise the usable external area of the site.

Council's Landscape Officer has noted several trees on the site and Council's naturestrip that are to be protected during the works.

The proposal, subject to compliance with conditions of consent, meets Council's objectives for landscaping despite non-compliance with the statutory standard of RLEP 1998.

State Environmental Planning Policy No.10

The Section 82A application was referred to the Department of Planning on 24 November 2005. Comments in this respect are under the referral section, earlier in this report.

State Environmental Planning Policy No 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.

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

Application of Policy-

This Policy applies to development being:

- (a) The erection of a new residential flat building, and
- (b) The substantial redevelopment or the substantial refurbishment of an existing residential flat building, and
- (c) The conversion of an existing building to a residential flat building.
- (d) If particular development comprises development to which subclause (1) applies and other development, this Policy applies to the part of the development that is development to which subclause (1) applies and does not apply to the other part.

The guide stipulates that the SEPP is to be applied in accordance with the following paragraph:

Definition of residential flat building and application of SEPP No 65

The SEPP will apply to **residential flat buildings** of three or more storeys (not including levels that protrude less than 1.2 m above ground level that are devoted to car parking and storage) **and** four or more self contained dwelling units. It will not apply to buildings classified as Class 1a or 1b under the Building Code of Australia.

The application requires assessment under SEPP 65 and as such the application was referred to the Design Review Panel. Comments in this respect are under the referral section, earlier in this report.

6.2 Development Control Plans and Policies**Multi Unit Housing Development Control Plan, 2000**

Discussion of compliance with the requirements of the *Multi Unit Housing Development Control Plan* is included in section 6.3 of this report.

Development Control Plan Parking (DCP Parking), 1998

Standard	Requirement	Provided	Compliance
Car Parking a) number	1.2 spaces required for each two bedroom dwelling (7 x 1.2 = 8.4 spaces)	4 spaces	No
	1space/4 dwgs or part thereof for visitors (2 spaces required)	0 spaces	No
	TOTAL SPACES REQUIRED = 10	4 spaces	No
b) layout	As per DCP.	Adequate turning areas provided.	Yes
Bicycle Storage	1 space per 3 units plus 1 visitor space per 10 units (2 bike spaces)	Not indicated	No*

* May be conditioned to comply

As indicated above, the proposal does not comply with the number of resident, visitor and bicycle spaces required for a development of this size. The non-compliance has been discussed in detail in section 6.3 of this report.

Section 94 Contributions Plan, 1999

The development has been assessed against Council's Section 94 Contributions Plan as it proposes 7 dwellings on the site. The proposal contains 7 x 2 bedroom dwellings. Therefore, the contribution rate is 7 x \$1792.88 (open space - \$12,550.16) and 7 x \$792.72 (community facilities - \$5,549.04) = \$18,099.20.

The existing boarding house has 10 rooms and, therefore, a credit applies. The rate is \$1040 per bedspace = \$10,400. The ratio of total contributions payable in accordance with the above is 69% open space and 31% community facilities. On that basis, a credit of \$7,176 should apply to open space and \$3,224 should apply to community facilities.

Therefore, the total amounts payable are \$5,374.16 for open space and \$2,325.04 for community facilities. An appropriate condition (No.23) is included in the recommendation section of this report.

Rainwater Tanks Policy, 2003

A condition requiring the installation of a rainwater tank in accordance with Council's Rainwater Tanks Policy could address the Policy requirements.

6.3 DCP – Multi-Unit Housing

Height

The development has an overall height of up 9.4 metres (exclusive of the existing building which will remain at its existing height and complies with the statutory standard of 12 metres. The maximum external wall height of the development is also 9.4 metres and complies with the standard of 10 metres.

The objective of Council's overall and wall height standards are 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 meets the statutory external wall height and overall height standards of 10 metres and 12 metres, respectively, to all elevations. The proposed development is consistent with the bulk and scale of surrounding properties and will not have an adverse impact on the existing heritage streetscape. The increased height of the building to the rear on the site (at second floor level) will not result in significant overshadowing, view or 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.

Desired Future Character

The site is considered to be in a *Type 7 – Mixed Building Type Area* under Part 2 of the Randwick Multi-Unit Housing DCP. The site is located amongst a variety of development types including 3 storey 1960-80s walk-up flats and 1-2 storey freestanding and semi-detached dwelling houses. The development is of a scale that is the same or less than nearby residential flat buildings, and although the development is larger than some dwelling houses, the re-use of an existing structure has minimised any impacts of the development. The reinstatement of the balconies (previously enclosed) and upgrading works to the street façades of the building will make a positive contribution to the mixed character of the area.

Building Setbacks

The retention of the existing building on the site means the proposal will not result in significant changes to existing setbacks. The front setback will be maintained and is consistent with the alignment in Wood Street. The existing building is setback 1 metre from the northern side and has a nil setback to Wood Lane (West) on the southern side. These setbacks do not meet the preferred solutions under the Multi Unit Housing DCP, however as the existing building was constructed prior to Council's current controls compliance has not been enforced.

New balconies have been proposed to the rear of the existing building. These balconies will be setback an average of 2.5 metres from the northern side boundary. The balconies do not have any privacy screening indicated. The proximity of the balconies to the boundary and their elevation will provide opportunities for overlooking of the rear yard of the adjacent property. As such, any approval could include a condition requiring screening be provided to these balconies. Balconies on the southern side overlook garages and Wood Lane (West) and will not result in significant privacy impacts. No screening is required to the balconies on the southern side.

A new garage is to be constructed with nil setbacks to side boundaries. This does not meet the requirements of Council's Multi-Unit Housing DCP, however the garage is consistent with the predominant pattern of garaging in Wood Lane and is considered to be acceptable. The garage has been setback 1 metre from the rear boundary in accordance with the requirements of the DCP – Parking and to address concerns raised in relation to visibility and manoeuvring in the laneway.

The development, subject to conditions on any approval, is considered satisfactory with regard to setbacks.

Fences

The development will retain the existing masonry fencing to Wood Street.

Along Wood Lane (West) to the southern boundary solid timber fencing to 1.2 metres high with 50% transparent timber slats above to 1.8 metres high is proposed.

This fencing will be setback 1 metre in parts to accommodate screen planting to the Lane.

To the northern side boundary fencing to 1.8 metres in height comprised of 1.2 metres of solid timber with timber slats above is proposed, this meets the preferred solution under the DCP. Towards the eastern end of this boundary a 3.5 metre high section of fence is proposed to the edge of the terrace above the garage. This fencing will project approximately 1 metre beyond the line of the above garage terrace of the adjoining dwelling. While the fence provides some screening between the two terraces, the extension of the fencing is considered to result in additional visual scale and bulk impacts. A condition could require modification of this element to provide screening across the western edge of the terrace to restrict sightlines without resulting in significant additional bulk to the adjoining property.

The development, subject to conditions on any approval, is considered satisfactory with regard to fencing.

Privacy

The dwellings are all generally oriented to the front and rear of the subject site, this has minimised privacy impacts to surrounding properties. There are five new windows on the northern elevation that relate to 2 new bedroom windows at basement level, a new window to a ground floor kitchen area, stair and dining room and bedroom on first floor level. The angle of view from these new windows will be restricted by the existing building on the site at 6 Wood Street. The new windows will not overlook the rear yard of 6 Wood Street. Although the new windows are approximately 1 metre from the wall of the adjacent dwelling, there is only two windows vertically aligned on the southern elevation of 6 Wood Street. These windows are located approximately 12.5-13.5 metres along the southern elevation of 6 Wood Street, measured from the front boundary of the subject site. None of the new windows will align to this window and no privacy impacts will result from construction of the new windows. New windows are also proposed to the southern elevation, however these will overlook garages and will not result in any visual privacy impacts.

Decks are proposed at ground and first floor level and due to the topography towards the rear of the site, ground level balconies are quite elevated. The balconies to the southern side of the site are located more than 9 metres from the northern boundary of the site (common with 6 Wood Street) and this distance is considered to provide adequate separation to negate any privacy impacts. The northern balconies, however, are located an average of approximately 2 metres from the northern boundary of the site and, due to their chamfered plan, they lack screening. Screening is to be provided to the northern elevations of these balconies to ensure visual privacy is maintained between the properties (see condition No.6 in recommendation).

The roof terrace over the garage to the rear of the site is elevated and located so as to allow for overlooking of the rear yard of 6 Wood Street. In order to mitigate these impacts and minimise the visual bulk of any screen structures on 6 Wood Street, A condition requiring a fixed privacy screen with a height of 1.8 metres above finished floor level of the garage roof be provided to the north western edge of the terrace,

extending between the northern boundary to the top of the stair access from the rear yard of 8-10 Wood Street could be imposed to address this issue.

The development is satisfactory with regard to privacy, subject to imposition of conditions on any consent.

Solar Access and Energy Efficiency

The orientation of the site results in shadows cast over Wood Lane and Wood Lane (West) and garages of dwellings that address Rae Street to the south. The area of additional shadow is minor, being cast from the new garage structure to the east (rear of the site). The shadow will affect the rear yard of 23 Rae Street throughout the day to a maximum area of approximately 12m² of additional shadow. Despite this minor increase, the dwelling at 23 Rae Street will still achieve more than 3 hours of sunlight to the majority of the yard at midwinter and the northern elevation of this dwelling will not be affected by any additional shadow.

The applicant has submitted a NatHERS report for the proposal, which indicates that the development meets the minimum (3.5 stars) applied to residential development by Council with three dwellings achieving a rating of 5 stars and two achieving 4 stars. Standard conditions could also be applied to ensure the proposal minimises water and energy use if approval were to be granted.

The proposal, subject to conditions being included on any approval, is satisfactory with regard to ESD principles.

Safety and Security

The proposal provides primary access to the site from Wood Street with a secondary access from Wood Lane (West). An access gate is also provided from the four parking spaces at the rear of the site to the back door of the building. The entries proposed will be clearly legible from the Wood Street and Wood Lane (West) frontages. Large windows and balconies are proposed to Wood Street including the restoration of first floor balconies. Balconies are also provided to Wood Lane (West) that will improve opportunities for surveillance of the public domain.

The proposal is satisfactory with regard to safety and surveillance.

Traffic and Parking

The development does not meet Council's DCP – Parking requirements with regard to resident and visitor car parking. The development is deficient by 6 spaces. The existing boarding house on the site requires provision of 2 carspaces but provides only one. A credit may be applied for the existing deficiency on the site, reducing the parking shortfall to 5 spaces. The strata plan shows four units having access to a parking space. The remaining 3 units will not be provided with parking and no visitor spaces will be provided. The deficiency is considered to be acceptable as the development utilises an existing building within a heritage area and provision of further parking on the site may detract from the appearance of the site and would further reduce the area available for landscaping. In the circumstances the provision of four spaces is considered to be an acceptable compromise between parking

provision, landscaping and streetscape impacts. The development is located within a 2(c) zone and the redevelopment for multi unit housing is consistent with the objectives for the zone. The applicant has provided a traffic and parking study which indicates that the development will not have a significant impact on the surrounding area in terms of traffic and parking generation. Condition No .4 in the recommendation section of this report requires for the provision of bicycle parking spaces on the site.

The development is satisfactory with regard to parking provision.

10. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.

11. CONCLUSION

The applicant has satisfactorily addressed all reasons for refusal. The Department of Planning has granted its concurrence. The proposed development was considered, in its original assessment, to be acceptable in all other aspects. On that basis, the proposed development is considered to be acceptable and Council may rescind its decision dated 30 June 2005 and grant approval to the development application.

RECOMMENDATION:

- A. **THAT**, under Section 82A of the Environmental Planning and Assessment Act 1979 (as amended), Council's original determination of Development Application No.DA/225/2004 dated 30 June 2005 for the application seeking to make alterations & additions to the existing boarding house & change of use to a residential flat building comprising 7 x 2 bedroom dwellings, associated garaging and strata subdivision at 8-10 Wood Street, RANDWICK NSW 2031, be rescinded.

AND

- B. **THAT** Council support the objections under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with Clauses 31 and 32 of the Randwick Local Environmental Plan 1988, relating to floor space ratio and landscaping, on the grounds that the proposed development is consistent with the objective of the clause and will not adversely affect the amenity of the surrounding locality and that the Department of Planning be advised accordingly.

AND

- C. **THAT** Council, as the consent authority, grant development consent as a Deferred Commencement under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA-225/2004 for permission to make alterations & additions to the existing boarding house & change of use to a residential flat building comprising 7 x 2 bedroom

dwellings, associated garaging and strata subdivision at 8-10 Wood Street, Randwick, 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 of City Planning:

1. The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building/existing buildings in the heritage conservation area. 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 City Planning. Unpainted surfaces, eg- brickwork/stonework are to remain unpainted.

Development Consent Conditions

1. The development must be implemented substantially in accordance with the plans drawn by the Architecture Company, numbered Issue H of DA02, DA05 dated 21/10/04 in the amendments box and stamped received by Council on 2 March 2006 and Issue D of DA03, DA04 and DA06 dated 20/02/04 in the amendments box and stamped received by Council on 2 March 2006 and the landscape plans drawn by Zenith Landscape Designs, Drawing Nos. 04-1649A and 04-1649B dated Feb 04 and stamped received by Council on 2 March 2006 and Sheets 1-4 of the strata plans, surveyor's reference 19915 stamped received by Council on 2 March 2006, the application form and on any supporting information received with the application, except as may be amended by the information submitted to satisfy the deferred commencement conditions and except as amended by the following conditions and as may be shown in red on the attached plans:
2. A one-off monetary contribution of \$67,080.00 is to be paid to Council for the purposes of mitigating the proposed loss of low-cost rental accommodation. The contribution must be paid in cash or by bank cheque in **one complete payment prior to the Construction Certificate being issued**, and, in accordance with the concurrence requirements of the Department of Planning, the Council shall use the contribution solely for the purpose of developing affordable housing in the vicinity of the subject site.
3. All residents of the building are to be given a minimum of fifty (50) days notice before being required to vacate the premises. A copy of such notice is to be submitted to Council at the same time that it is issued to the residents.
4. A total of three (3) bicycle parking spaces are to be provided on site in a secure place that is accessible to residents and visitors of the building.
5. Each resident of the building is to be provided with a one-off lump sum payment of \$500 to assist in the cost of relocating. Each payment is to be made within 7 days of the notice to vacate is issued in accordance with condition No.3.

6. A fixed privacy screen having a minimum height of 1.8m and extending a minimum length of 1.5 metres is to be provided to the northern edges of balconies to Unit 4 and Unit 5 and the screen shall be constructed of timber. Details of compliance are to be provided in the construction certificate plans.
7. A privacy screen having a height of 1.8m above the finished floor level of the roof terrace to the garage to the rear of the site is to be provided. The screen is to be fixed along the curved western edge of the terrace extending from the northern boundary of the site to the nosing of the first stair. The screen shall be constructed of timber.

The 3.5 metre high timber screen shown at the eastern end of the northern elevation adjacent to the masonry wall of the garage is to be deleted in favour of continuation of the 1.8 metre high timber boundary fencing.

This condition is imposed to maintain privacy to the rear yard of the adjacent dwelling and minimise visual privacy impacts to this property. Details of compliance are to be provided in the construction certificate plans.

8. The property is to be treated to remove any vermin prior to the commencement of works. Documentation from a licensed pest controller is to be provided to the PCA indicating that the property has been treated prior to works commencing. This condition is imposed to protect the amenity of surrounding properties and future residents on the site.
9. All plumbing and drainage pipes, other than rainwater heads, gutters and downpipes, must be concealed within the building.
10. The garages shall not be let, adapted or used for separate occupation or commercial purposes
11. No cooking facilities or sanitary fittings other than those indicated on the approved plans are to be installed in the premises without the prior written consent of the Council.
12. Power supply and telecommunications cabling to the development shall be underground.
13. A single common television aerial, and/or satellite dish (having a maximum diameter of 700mm and not located on the front or street elevation of the building) is to be installed to serve the development.
14. 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.

15. 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.
16. Where access is required to adjoining premises for construction purposes, the consent of the owners 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.
17. 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.
18. In accordance with the provisions of clauses 143A and 154A of the Environmental Planning & Assessment Regulation 2000, a 'Design Verification Certificate' must be provided to the Certifying Authority and the Council, prior to issuing a construction certificate and an occupation certificate, respectively.
19. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.
20. The enclosure of balconies is prohibited by this consent.
21. 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.
22. Any gate openings shall be constructed so that the gates, when hung, will be fitted in such a manner that they will not open over the footway or public place.

The following condition is applied to satisfy the increased demand for public amenities and public services:

23. 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 \$5,374.16
 - b) for the provision or improvement of community facilities \$2,325.04
 - c) Administration fee \$425.00 \$ 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.

The following conditions are imposed to promote ecologically sustainable development and energy efficiency.

24. 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.

25. 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 noted in the **construction certificate** plans or specifications.
26. External timber or metal framed and brick veneer walls and roofs are to be provided with insulation (i.e. bulk insulation and a reflective building membrane/reflective sarking/foil insulation), having a minimum total thermal resistance R-value of 3.0 in roofs and 1.5 in external walls. The insulation and reflective building membrane is to be installed in accordance with the relevant requirements of the Building Code of Australia and the manufacturer's details.

Details of compliance with the requirements for insulation are to be included in the **construction certificate** application.

27. Hot water service pipes are to be provided with insulation and must also satisfy any relevant requirements of Building Code of Australia and AS 3500.
28. The hot water system installed in the development must achieve a minimum greenhouse score of 3.5 as detailed SEDA's Energy Smart Homes Policy. Any electric clothes dryers to be provided in the development must also have a minimum 2 star energy rating.
29. A rainwater tank, of sufficient size to provide water for irrigation of all landscaped areas within the development, is to be provided to the development in accordance with Council's Rainwater Tank Policy

The tank is to be located a minimum of 900mm from the side boundaries and is to have a maximum height of 2.4 metres. The tank is to be installed behind the front building line and is to be located at ground level and be incorporated into the relevant construction certificate and landscape plans, to the satisfaction of the Certifying Authority.

The noise level from the pump is not to exceed 5dBA above ambient background noise, measured at the property boundary and the pump must not be audible within any dwelling located upon any other premises between 10pm and 8am.

The following conditions are imposed to maintain the integrity of the St Marks Heritage Conservation Area:

30. Any sandstone kerbing to be removed shall be removed under the supervision of Council's Heritage Planner and the sandstone shall be stored in Council's care.

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

31. The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

32. 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*.
33. The existing levels of fire safety within the premises are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of clause 94 of the *Environmental Planning & Assessment Regulation 2000* and a report prepared by a suitably qualified person or accredited certifier is to be submitted to and approved by Council's Manager of Environmental Health & Building Services, prior to the issuing of a construction certificate, in accordance with section 80A(2) of the *Environmental Planning & Assessment Act 1979*.

The fire safety report must detail the measures considered appropriate to satisfy the relevant performance requirements of the Building Code of Australia, to protect persons using the building, and to facilitate their egress from the building in the event of fire and to restrict the spread of fire.

The fire safety upgrading works are to be included in **the construction certificate** and be implemented prior to occupation of the new building or part.

The fire safety report is specifically required to address the following provisions of the Building Code of Australia, as applicable:

- | | | | |
|----|----------------|---|--------------------------------------|
| a) | EP2.1 & EP2.2 | - | smoke hazard management |
| b) | EP4.1 & EP 4.2 | - | emergency lighting and exit signs |
| c) | BP1.1 | - | structural provisions |
| d) | CP1 | - | structural stability during a fire |
| e) | CP2 | - | elements to avoid the spread of fire |
| f) | DP1 to DP6 | - | access and egress |

34. 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.

35. 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.
36. 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.
37. 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.

38. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.

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

39. A Certificate of Adequacy prepared by a *professional engineer* is to be submitted to the principal certifying authority (*and the Council, if the Council is not the principal*

certifying authority) prior **to occupation of the building**, certifying the structural adequacy of the building and that the building works satisfy the relevant structural design requirements of the Building Code of Australia.

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:

40. 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**.
41. 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.
42. The building works are to be inspected by the *Principal Certifying Authority* (or other suitably qualified person approved by 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 details of compliance with Council's approval is to be maintained by the *Principal Certifying Authority*. Details of *critical phase* inspections carried out and copies of certification relied upon shall be forwarded to Council with the occupation certificate.

Upon inspection of each stage of construction, the *Principal Certifying Authority* (or other suitably qualified person approved by the *Principal Certifying Authority*) is also required to ensure that the relevant site management, public safety and sediment and erosion requirements specified in Council's consent are being satisfied.

43. Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.
44. All building, demolition and associated site 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.

45. 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*.

46. Public safety and convenience must be maintained at all times during demolition, excavation and construction works.

The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.

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.

47. 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.
48. 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.
49. 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".
50. During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.

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

Dust control measures and practices may include:-

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

51. Public safety must be maintained at all times and 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.

Fences or hoardings 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.

Details of the proposed temporary fences located upon the site are to be submitted to the principal certifying authority and 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.

52. 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.

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.

53. Stockpiles of soil, sand, aggregate or other materials must not be located on any

footpath, roadway, nature strip, drainage line 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, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system

54. 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.

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

55. 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 remedying any defect on such public works, in accordance with section 80A(6) of the Environmental Planning and Assessment Act 1979:

- a) \$2000.00 - Security damage deposit

The damage deposit may be provided by way of a cash or cheque with the Council and is refundable upon a satisfactory inspection by Council that no damage has occurred to the Council assets such as roadway, kerb, guttering, drainage pits footway, or verge. The applicant is to advise 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.

56. 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.

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

57. The applicant must meet the full cost for Council or a Council approved contractor to:
- (a) Construct concrete laybacks at kerb opposite the vehicular entrances to the site, including any associated roadworks.
 - (b) Re-construct a kerb and gutter for the full site frontage in Wood St including any associated roadworks.

Reconstruct the Council footpath along the Wood St site frontage, if required. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.

58. 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.
59. 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.
60. The applicant is to dedicate a 1.00m x 1.00m splay at the south-east corner of the site. No structure is to be located within the dedicated splay corner.

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

61. 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 shall be as follows:
- Wood St Frontage - match the back of the existing Council footpath.
 - Wood Lane Southern Side Frontage – match the existing asphalt road level.
 - Wood Lane Eastern Rear Frontage – match the centreline of the road at all points along the rear site frontage.

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

62. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the roadway/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.

63. The above alignment levels and the site inspection by Council's Department of Asset & Infrastructure Services have been issued at a prescribed fee of \$1,760.00 calculated at \$27.50 (inclusive of GST) per metre of site frontage. 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:

64. 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.
65. 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.
66. 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 Energy Australia prior to lodging the construction certificate whether or not an electricity substation is required for the development.
67. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice must be issued to the Principal Certifying Authority prior to the construction certificate being issued.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the plan of subdivision.

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

68. Generally all site stormwater shall be piped to a sediment/silt arrester pit that drains to a 5 metre square base infiltration area. An overflow pipe shall be provided from the silt arrester pit to drain to Council's kerb and gutter.

The location and details of the proposed internal stormwater pipelines, silt arrestor pit and the infiltration area shall be submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the plans is to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the certifying authority.

Notes:

- a. The sediment/silt arrestor pit shall be constructed:-
 - i. within the site at or near the street boundary.
 - ii. with a child proof and corrosion resistant fastening system (e.g. spring loaded jay-bolt).
 - iii. with a minimum of 4 x 90 mm diameter weep holes (preferably located in the walls of the pit at the floor level) and with a suitable geotextile material **with a high filtration rating** located around the weep holes.
 - iv. with the pit floor being a minimum 300mm below the invert level of the outlet pipelines.
 - v. with a **galvanised** heavy duty screen (Lysaght RH3030 Maximesh or similar) located over the outlet pipes draining to the infiltration pit and the kerb. (Similar to a Mascot GRC stormwater discharge control pit, product code DS3SDC).
- b. The infiltration/rubble pit shall:-
 - i. have a minimum 300 mm of soil cover (600 mm where the pit is located under a garden/landscaping area).
 - ii. be located a minimum of 3.0 metres from the dwelling or other structure (closer if a structural engineer certifies that the infiltration area will not adversely affect the structure) and 2.1 metres from the adjacent side or rear boundaries.
 - iii. be constructed with a minimum 200 mm thick layer of 20 mm basalt/blue metal (or similar) that is wrapped in a suitable geotextile material covering with a high filtration rating (Geofabrics Bidim "A" range of filtration fabrics or equivalent). A suitable means of dispersing the stormwater over the area of infiltration is to be constructed.
 - iv. Note: other equivalent methods of infiltration may be adopted.
 - v. have a minimum base area of 5.0 square metres (m²).

The outlet from the silt arrestor pit to the infiltration area shall be located at least 50 mm below the outlet from the silt arrestor pit to the kerb and gutter.

- c. The requirement for an infiltration/rubble pit will not be enforced should the underground soil conditions preclude the construction of the infiltration pit (eg rock is located within 300 mm of the base of the infiltration area). If the infiltration/rubble pit is not constructed then all site stormwater shall be discharged to the kerb and gutter via a sediment/silt arrestor pit (as detailed in note a. above).

All works shall be to the satisfaction of the certifying authority.

69. 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.
70. Any seepage water must be drained directly into an absorption pit within the site. Seepage water must **not** be drained from the site.

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

71. The garbage room areas will have to be designed so as to be able to contain a total of 8 x 240 litre bins (4 garbage bins & 4 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.
72. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.
73. 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 development site.

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

74. 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.
75. The conditions of development consent must be satisfied and all public roads and reserves must be satisfactorily restored prior to the finalisation of the strata subdivision.
76. Prior to release of the Plan of Subdivision the applicant shall provide Council with a subdivider/developer certificate for the proposed lots. The certificate is obtained from Sydney Water.
77. The applicant shall provide Council with a survey plan of the property prior to receiving strata subdivision approval.

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

78. The landscaped areas shown on the plan numbers 04-1649, sheet 1 & 2, drawn by MG of Zenith Landscape Designs, dated February 2004, shall be the subject of detailed landscape drawings and specifications, which are to be submitted to, and approved by, the certifying authority or {the Director of Assets & Infrastructure in

accordance with Section 80A(2) of the Environmental Planning and Assessment Act 1979}, 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 trees 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. The landscape plan shall show a minimum number of 3 x 45 litre broad canopied trees (not palms) suitably located within the site. The trees selected shall be of a species that attain a minimum height of 6 metres at maturity.

- h. 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.
 - i. 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 that require minimal watering once established or species with water needs that match rainfall and drainage conditions.
 - j. In order to reduce the amount of stormwater generated by the site, porous paving shall be used in all pathways and paved areas. Details are to be provided with the construction certificate application.
 - k. Location of easements within the site and upon adjacent sites (if any).
79. 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.
80. 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.
81. 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.
82. Landscaped areas must contain a predominance of species that require minimal watering once established or species with water needs that match rainfall and drainage conditions.
83. Approval is granted for the removal of the following tree subject to the planting of 3 x 45 litre broad canopied replacement trees (not palms) within the site. The species selected shall be those that will attain a minimum height of 6 metres at maturity.
- a) One *Persea americanna* (Avocado) in the rear yard, against the southern boundary

84. The applicant shall be required to ensure the retention and long term health of the *Eucalyptus nicholii* (Willow Leafed Peppermint) and the *Agonis flexuosa* (Willow Myrtle) in the neighbouring property to the north, close to the common boundary. As a general guide there shall be minimal excavation or root pruning within the driplines of the subject trees.
85. In order to accommodate the proposed rear deck and pergola as is shown on the plans, permission is granted for the selective pruning of branches from the *Callistemon viminalis* (Bottlebrush) and the tree (*species undetermined*) located along the northern boundary in the rear yard. All pruning must be undertaken by a qualified Arborist, with suitable qualifications in Arboriculture and to Australian Standard AS 4373-1996 'Pruning of Amenity Trees.'

The applicant will be required to provide details of a suitably qualified and professional Arborist to be used for such work prior to the issue of a construction certificate.

86. In order to ensure the retention of the *Callistemon viminalis* (Bottlebrush) and the tree (*species undetermined*) located on along the northern boundary in the rear yard 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. 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 metre from the outside edge of the tree trunk.

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

- c. 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 and no stockpiling of soil or rubble.

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.

- d. Any excavations required for footings, structures, retaining walls, services, pipes, detention tanks, stormwater infiltration systems, paving etc within 2 metres of the tree trunks shall be undertaken by hand and under the direction of, and to the satisfaction of, a suitably qualified Arborist with all roots being cleanly cut.

- e. The erection of signage on the fence with the following words clearly displayed: "TREE PROTECTION ZONE", "DO NOT ENTER".
87. A refundable deposit in the form of cash or cheque for the amount of \$7000.00 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.
88. 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.

ADVISINGS

- A1.** 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.
- A2.** 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
- c) Part E2 - Smoke Hazard Management
- d) Part E4 - Emergency lighting, exit signs and warning systems

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:

Nil

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
TOM HUTCHISON
ENVIRONMENTAL ASSESSMENT OFFICER

MOTIONS PURSUANT TO NOTICE

11.1 Motion By Councillor Tracey – New Childcare Centres Policy. (F2005/00357 xr F2005/00171)

That:

- a) Council move to develop a Childcare Centres Policy as a matter of urgency. The policy would be an important planning tool to ensure the provision of high quality childcare centres in Randwick LGA and specifically ensure that all centres are located at appropriate locations, on appropriate sites and in appropriate buildings.
- b) the policy have regard to matters such as:
 - **Demonstrated compliance** with all DOCS minimum requirements, as per the *Children's Services Regulation 2004*. For example calculations for indoor and outdoor spaces cannot include passageways or stairs. Other requirements include separate toilet facilities for staff and children, craft facilities and adequate storage;
 - **Locations and zoning**, so as not to conflict with the objectives of a particular zoning;
 - **Existing neighbourhood character and amenity**, to ensure that the introduction of a childcare centre would not significantly change these and compromise community interaction and 'sense of community' (consistent with Council's Mission Statement);
 - **Topography of the site** should be level, so as to allow safe and efficient access to buildings and outdoor facilities, especially for children;
 - **Minimum allotment sizes, site widths and building frontages**, to ensure all facilities are able to be provided, and that detrimental impacts on surrounding streetscape and properties are avoided;
 - **Class of building** – childcare centres should not be located in residential flat buildings, dual occupancies, duplexes and semi detached and attached dwellings;
 - **Acceptable height, bulk and scale** to ensure that the site is not overdeveloped, complies with maximum FSR for the particular zoning, and is in keeping with the surrounding streetscape;
 - **Suitability of design of building** for use as a childcare centre, so as to maximise operational efficiency, avoid impacts on neighbours, and encourage best practice. Childcare centres should be located on one floor. There should also be clear 'pathways' between functional areas, both inside and out, which do not cross playroom or toilet facilities;
 - **Acoustic and visual impacts** should be avoided. For example, additional traffic generated should not significantly increase neighbourhood noise, and the amenity of adjoining and surrounding neighbours should be maintained by containing noise within the site, and ensuring no overlooking/loss of privacy. Good setbacks from adjoining properties are essential in this regard;
 - **Supportive traffic conditions**. For example, childcare centres should not be located in dead ends, cul de sacs or narrow streets, or where they would present

traffic movement and parking problems or give rise to dangerous traffic and pedestrian situations;

- **Adequate on site parking** for staff, service vehicles and clients, to ensure safe parking and vehicular manoeuvring, and avoid congestion on the roadway and inconvenience to adjoining properties;
- **Good pedestrian access.** For example, childcare centres should have safe and easy access, particularly for children. They should be located at street level in residential areas, avoid steps, have pedestrian access well separated from parking, and have good access for prams (eg ramps) – especially where a centre caters for under two's;
- **Design of outdoor spaces** so as to provide functional linkages between indoor and outdoor spaces, maximise supervision from both within the centre and from the play space, facilitate integrated indoor/outdoor play spaces, minimise noise from children's activities and avoid overlooking from and into adjoining properties. Ideally the design and provision of outdoor space should be in accordance with 'Best Practice Guidelines in Early Childhood Physical Environments.';
- **Acceptable emergency access and evacuation arrangements** to ensure that the safety of children and staff is paramount;
- **Dual Use requirements** (where the building is also proposed to be used as a residence) to ensure that the childcare centre and dwelling house stand alone in terms of car parking, access, facilities and outdoor space;
- **Maximum number** and age of children, should be subject to the *Children's Services Regulation 2004* and confirmed with a letter issued by DOCS and attached with Development Applications;
- **Hours of operation** should not compromise neighbourhood amenity, and needs to be supported in terms of traffic and parking;
- **Demonstrated compliance** with the requirements of the Building Code of Australia (BCA), including disabled access; and
- **Compliance** with relevant Council planning instruments and policies.

By adopting these and other important criteria Council would ensure consistency when assessing applications for childcare centres, and that acceptable precedents are maintained for future applications.

- c) Council staff moved to develop a Childcare Centre Policy within one month of the date of this resolution, so that the policy can be applied as soon as possible.