6th June, 2006

HEALTH, BUILDING AND PLANNING COMMITTEE MEETING

NOTICE IS HEREBY GIVEN THAT A HEALTH BUILDING AND PLANNING COMMITTEE MEETING OF THE COUNCIL OF THE CITY OF RANDWICK WILL BE HELD IN THE COUNCIL CHAMBER, TOWN HALL, 90 AVOCA STREET, RANDWICK, ON TUESDAY, 13TH JUNE, 2006 AT 6.30 P.M.

Committee Members: His Worship the Mayor, Cr T. Seng, Cr B. Notley-Smith (Chairperson), Crs Andrews, Bastic, Belleli, Daley, Hughes, Kenny, Matson (Deputy Chairperson) Nash, Procopiadis, Sullivan, Tracey, White & Woodsmith.

Quorum: Eight (8) members.


1 Apologies

2 Minutes


3 Declaration of Pecuniary & Non-Pecuniary Interests

4 Addresses to Committee by the Public

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6.3 DIRECTOR, CITY PLANNING REPORT 48/2006 - DRAFT RANDWICK CITY AFFORDABLE RENTAL HOUSING PROGRAM + PROCEDURES.

6.4 DIRECTOR, CITY PLANNING REPORT 49/2006 - DRAFT CHILD CARE CENTRES POLICY.

6.5 DIRECTOR, CITY PLANNING REPORT 50/2006 - ESTABLISHMENT OF AN INDEPENDENT HEARING AND ASSESSMENT PANEL. (IHAP)

7 General Business

8 Notice of Rescission Motions

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GENERAL MANAGER
Director, City Planning Report 45/2006

SUBJECT:  45 Market Street, Randwick

DATE:  24 May, 2006    FILE NO:  DA/779/2005

REPORT BY:  DIRECTOR, CITY PLANNING

INTRODUCTION:

A report recommending approval of the proposed development was considered at the Health, Building and Planning Committee meeting on 11 April 2006 where the Committee resolved that the application be deferred to the next ordinary Council meeting for amended plans to be submitted by the applicant providing for the rear studio to be setback 1.5 metres from the rear boundary and providing for landscaping on the rear boundary.

ISSUES:

Amended plans were submitted on 2 May 2006 and the following changes were made:

- The proposed garage has been setback a minimum of 3.5m from the spotted gum on the site.
- The studio portion of the proposed rear detached addition is setback from the rear boundary by 1500mm.
- Landscaping within the rear boundary setback using Melaleuca armillaris - Bracelet Honey Myrtle, which grow to an average height of 5 metres.

The surrounding properties were renotified of the amended plans which were available from 8 May to 22 May 2006. The following objections were received:

Rob Wilson – 1/32 Figtree Avenue

- Is concerned that a 2.1 metre wall will be constructed 1.5 metres from the rear boundary and a higher wall closer to the boundary.

Comments

- The studio wall will have a height of 3.45 metres. However, the setback of 1.5 metres and proposed landscaping between the studio and the boundary fence will soften the appearance of the wall and result in minimal visual impact to the
adjoining properties. It should be noted that there are no residential dwellings are located on the ground floor of the adjoining multi-unit residential building.

**Vince Connell and Angela Fehringer – 2/32 Figtree Avenue**

- The proposed development will have an impact on the visual amenity of adjoining properties.
- The clerestory roof structure is an unnecessary visual imposition.
- Objects to the use of the previously approved garage as a precedent for this development.
- Concerned that there is insufficient detail regarding the plant species proposed for the rear setback area.
- Is concerned that the existing strata will not be extinguished and that the rear addition may be used as a separate occupancy.

**Comments**

- The proposed development is a single story structure that will not be excessively high and be compatible with the scale of the surrounding development.
- The clerestory roof feature adds articulation and some visual interest to the roof of the garage and does not block any significant views of the area.
- The proposed garage maintains a similar setback of the existing garage and the garage located on the adjoining northern property. Therefore the proposed location of the garage is consistent with surrounding development.
- The applicant has confirmed the species for this landscaped area as an evergreen, native species growing to a maximum height of 5 metres, which will provide suitable screening of the garage to over properties.
- A condition has been included with the consent requiring the consolidation of the separate lots into a single lot. A condition has also been included restricting the use of the premises as a single residential dwelling.

**CONCLUSION:**

The application be reconsidered and determined in accordance with the recommendation.

**RECOMMENDATION:**

A. THAT Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No.779/2005 for change of use from multi-unit housing to a dwelling house, demolition of the rear garage and construct a new rear single storey garage and studio with high clerestory roof and alterations and additions including new rear extension with first floor deck and new front fence with driveway gate at 45 Market Street, Randwick subject to the following conditions:-

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:
1. The development must be implemented substantially in accordance with the plans numbered DA05E, DA06D, DA09C, DA12C and DA13C dated 27 April 2006 and received by Council on 2 May 2006, and DA10B dated 10 January 2006 and received by Council on 17 February 2006, the application form and on any supporting information received with the application, except as may be amended by the details approved pursuant to the deferred commencement condition and the following conditions and as may be shown in red on the attached plans:

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

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council’s Director of Planning & 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 relevant building works.

3. The external materials, colours and finishes of the building are required to match, as closely as possible, the existing building.

4. Metal roof sheeting is to be painted or colour bonded to minimise reflection and to be sympathetic and compatible with the building and surrounding environment.

5. 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.

6. 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.

7. The fence on the street alignment is to be a maximum height of 1.8m and be designed so that the upper two thirds of the fence is at least 50% open, to maintain reasonable levels of amenity to the adjoining residential development and the streetscape. Details of compliance are to be provided in the construction certificate plans.

8. The premises is to be used as a single residential dwelling only at all times and must not be used for dual or multi-occupancy purposes.

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

9. 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.
10. New 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.

11. New 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.

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

12. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

13. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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

14. 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.

15. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.
16. **Prior to the commencement of any building works**, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

17. **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.

18. 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.

19. 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; and
- a statement stating that “unauthorised entry to the work site is prohibited”.

20. 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.

21. 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.

22. 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 provisions 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 principal building contractor and compliance with the provisions of the Home Building Act 1989 (i.e. Details of the principal licensed building contractor and a copy of the Certificate of Insurance) are to be submitted to Council prior to the commencement of works, with the notice of appointment of the PCA / notice of intention to commence building work.

23. 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 0.2% of the cost of the works.

24. Smoke alarms are required to be installed in each Class 1 building or dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located in ‘dead-air-spaces’, in the corner junction of walls and ceilings between exposed rafters/ joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the Building Code of Australia – Housing Provisions.
Details of compliance with the provisions of the Building Code of Australia must be included in the plans/specification for the construction certificate.

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

25. 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.

26. 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.

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

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

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

28. 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.

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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

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.

35. 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.

36. 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.

37. 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.

The following conditions are applied to maintain reasonable levels of public health, amenity and safety:

38. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council’s Asbestos Policy and the relevant requirements of WorkCover NSW and the NSW Department of Environment & Conservation (formerly the Environment Protection Authority), including:

- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
• Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.

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


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

The Demolition Work Plan must be submitted to Council and the Principal Certifying Authority (PCA) if the Council is not the PCA, not less than two (2) working days before commencing any demolition works involving asbestos products or materials. A copy of the Demolition Work Plan must also be maintained on site and be made available to Council officers upon request.

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

40. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 200 m2 of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.

41. On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
42. Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996. Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.

43. A Certificate or Statement, prepared by a suitably qualified person (ie an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the works (prior to an Occupation Certificate being issued), which confirms that the relevant requirements contained in the Asbestos Survey and conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied.

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

44. Prior to the issue of an occupation certificate, the applicant must meet the full cost for Council or a Council approved contractor to:

1. Reconstruct the concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site;

2. Reconstruct any damaged sections of the concrete footpath along the full site frontage (Any unpaved areas on the nature strip must be turfed and landscaped to Council’s specification); and

3. Reconstruct any damaged sections of the kerb and gutter along the full site frontage.

45. 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.

46. 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.

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

47. The Council’s Development Engineer has inspected the above site and has determined that the design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, shall:

- **Match the back of the existing footpath along the full site frontage.**

  Any enquiries regarding this matter should be directed to Council’s Development Engineer on 9399 0923.

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

48. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate.

49. The above alignment levels and the site inspection by Council’s Development Engineer has been issued at a prescribed fee of $121.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

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

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

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

51. That part of the naturestrip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant’s expense prior to the issue of a final Occupation Certificate.

Tree Management

52. Approval is granted for the removal of the following trees subject to the planting of 3 x 25 litre (pot size) broad canopied replacement trees (not palms) suitably located in the rear yard of the site. The species selected shall be those which will attain a minimum height of between 4-7 metres at maturity.

1. One Syagrus romanzoffianum (Cocos Palm) hard up against the northwest corner of the existing dwelling,
2. One Phoenix canariensis (Canary Island Date Palm) in the rear yard, along the eastern boundary,
3. One Archontophoenix cunninghamiana (Bangalow Palm) near the centre of the rear yard.

Tree Protection Measures

53. In order to ensure the retention of the Corymbia maculata (Spotted Gum) in the rear yard, along the northern boundary 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 with the position of its trunk and full diameter of its canopy clearly shown on all drawings.

b. Detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show no alteration in the existing soil levels or the location of any stormwater or drainage works within a radius of 3.50 metres from the outside edge of its trunk.

c. Detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show that any section of driveway which passes within a distance of 3.50 metres from the outside edge of the trunk of the Corymbia maculata (Spotted Gum) shall be constructed using a porous/permeable material in order to maintain sufficient air and moisture exchange to the rootzone. Details demonstrating compliance with this condition shall be shown on the plans submitted for the construction certificate, to the satisfaction of the certifying authority.

d. The tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing which is to be located a minimum distance of 2.5 metres off the western, southern and eastern sides of its trunk to completely enclose the tree.

This fencing shall include signage which clearly displays the wording: "TREE PROTECTION ZONE", "DO NOT ENTER", and is to be installed prior to the commencement of demolition and construction works and shall remain in place until all works (excluding works associated with the permeable driveway within the tree protection zone) are completed.

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

f. Any excavations required for footings, structures, paving etc within 4
metres of the tree trunk shall be undertaken by hand and under the
direction of, and to the satisfaction of, a suitably qualified Arborist with
any roots needing to be cut to be done using hand held pruning tools, with
the area to be backfilled as soon as practically possible.

g. The installation of either Eucalyptus leaf mulch or woodchip mulch to a
depth of 75mm within the fenced off protection area as described in Point
d.

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

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

Advisory Conditions

A1 Building or excavations works must not be commenced until a construction
certificate has been obtained from Council's Building Certification Services or an
Accredited Certifier and either Council's Building Certification Services or an
Accredited Certifier has been appointed as the Principal Certifying Authority
(PCA) for this development.

Failure to obtain a Construction Certificate and appoint a PCA before
commencing works is an offence, which renders the responsible person liable to a
maximum penalty of $1.1 million under the Environmental Planning &

A2 The applicant is advised that the Construction Certificate plans and specification
must comply with the provisions of the Building Code of Australia (BCA) and the
construction certificate must not be inconsistent with the development consent.

In this regard, the development consent plans do not show compliance with the
deemed-to-satisfy provisions of the BCA.

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.

You are therefore advised to ensure that the development is not inconsistent with
Council's consent and to consult with Council’s Building Certification Services or
an accredited certifier prior to submitting your construction certificate application
to enable these matters to be addressed accordingly.

A3 The applicant is to advise Council in writing and/or photographs of any signs of
existing damage to the Council roadway, footway, or verge prior to the
commencement of any building/demolition works.
ATTACHMENT/S:

Development Application Report dated 15 February 2006

SIMA TRUUVERT
DIRECTOR, CITY PLANNING

PATRICK LEBON
DEVELOPMENT ASSESSMENT OFFICER
Development Application Report

REPORT BY: DIRECTOR, CITY PLANNING

DATE: 15 February, 2006  FILE NO: 779/2005

PROPOSAL: Change of use from multi-unit housing to dwelling house, demolition of the rear garage and construct a new rear single storey garage and studio with high clerestory roof and alterations and additions to the dwelling including new rear extension with first floor deck and new front fence with driveway gate.

PROPERTY: 45 Market Street, Randwick
WARD: North Ward
APPLICANT: Adam Sumegi
OWNER: Adam and Melanie Sumegi

Subject Site

Submissions received

North

LOCALITY PLAN
1. EXECUTIVE SUMMARY

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

The proposed development includes the change of use from multi unit housing to a dwelling house, a new front fence, alterations and additions to the existing building at the front of the site and a new rear garage with attached studio. The adjoining properties to the north, north east and east are multi-unit buildings constructed during the 1960s to 1970s and the property to south features a two storey dwelling house.

The proposed addition to the existing multi-unit building would be located on the southern side of the site and comprises of a ground floor family room and a roof top deck. This proposed addition would have a side setback to the southern boundary of 900mm and an external wall height of 3.5 metres with a 1 metre high balustrade. The infill panelling for the balustrade will be translucent to allow sunlight to the private open space of the adjacent dwelling to the south. The southern and eastern sides of the proposed deck will include planter boxes that will reduce overlooking and soften the visual impact of the addition.

The proposed rear garage is located in the north east corner of the subject site with an attached studio aligned along the rear boundary and is single storey. The side and rear setbacks for the proposed garage and studio are 0.3m and 0.2m respectively. The proposed garage includes a clerestory roof feature that has a maximum height of 5.3 metres which is 1.7 metres higher than the ridge line of the existing garage on the subject site. The remainder of the rear addition has a maximum roof height of 3.5 metres.

The objections received during the first notification period generally related to the bulk and visual scale of the detached rear addition, the overlooking from the roof deck addition to the main building, and loss of solar access. The objections from the second notification period related to the loss of amenity created by the proposed rear addition and loss of privacy from the rear first floor deck.

The proposed development satisfies the maximum floor space ratio (FSR) and minimum landscaped area preferred solutions as provided in the Dwelling Houses and Attached Dual Occupancies Development Control Plan. The proposed development will not significantly increase the overshadowing to adjacent private open space.

The recommendation is for approval subject to conditions.

2. THE PROPOSAL

The proposed development involves a change of use from multi-unit housing to a single dwelling house, construction of a new double car garage and single storey studio building at the rear of the site and refurbishment of the existing multi-unit building including a new family room with trafficable deck roof on the southern side.
of the lot. The applicant is seeking to use the site as a single dwelling house and terminate the existing strata scheme. A new tongue and groove timber driveway gate and brick front fence with timber infill panelling is also proposed.

The garage will facilitate two car parking spaces aligned end-to-end and a northern facing roof clerestory that will allow sunlight access to provide natural illumination to the garage. The proposed studio is a single storey structure attached to the garage and comprises of a large studio room, storeroom, and a small combined toilet and laundry room.

The garage and studio structures will have 300mm side and rear boundary setbacks to the northern and eastern boundaries and a 1.1 metre side setback to the southern boundary. The new family room with trafficable deck roof will have a side setback to the southern boundary of 900mm.

The proposed development will require the removal of some vegetation from the rear of the site however substantial revegetation will occur along the southern and northern boundaries including a small courtyard in the south eastern corner of the lot. Notably the large eucalyptus tree on the northern boundary, which the owners have consent to remove under a previous development application, will be retained by this proposed development.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is located on the eastern side of Market Street, approximately 50 metres north of the Clovelly Road, Gilderthorpe Avenue and Market Street intersection and about 260 metres south of the intersection of Market Street and Darley Road. The surrounding area forms part of the northern section of Randwick whose northern suburb boundary of Darley Road is also the local government area boundary with Waverly Council. The surrounding area comprises of a mix of multi unit residential buildings, semi-detached dwellings and detached residential dwellings.

The subject site is a regular shaped lot with a street frontage of 14.095 metres and a side boundary depth of 41.2 metres. The site currently features a 2 storey building that was strata subdivided into 2 units, whereby the ground floor and first floor constitute separate strata lots.

The site slopes slightly from the rear to the street frontage and features two relatively large palm specimens and a large eucalyptus tree along the northern boundary. The existing dwelling has a number of informal extensions and ad hoc additions to the rear of the building.

The site experiences a high degree of overlooking from the windows and balconies of the surrounding multi unit residential dwellings at No.32 Figtree Avenue, No.30 Figtree Avenue and No.41-43 Market Street.

4. SITE HISTORY
Previous development on the site includes the subdivision certificate (SC/63/1980) approved on the 3rd of March 1981. This subdivision granted Council consent for the strata subdivision of existing dwelling and created separate dwellings on the ground and first floor.

An application for the removal of overhanging vegetation was approved 12 December 2002 (TA/967/2002).

A development application was approved on 18 August 2003 for the erection of a new brick and tiled roof double car space garage to the rear of premises (DA/647/2003). The garage included a south facing balcony and the attic space of the garage was to be accessed by a pull down ladder.

The development consent also granted approval for the removal of the large eucalyptus tree at the northern side of the site and an unidentified species at the rear of the site. No change to the existing strata subdivision was proposed.

5. COMMUNITY CONSULTATION:

The proposal has been notified in accordance with the DCP – Public Notification. The following submissions were received:

5.1 Objections

The following objections were received during the initial notification period from 3 October to 17 October 2005.

Mrs K. Andrew – 47 Market Street

- Proposal is an overdevelopment of the site,
- Proposed development will close her property “like a vault”,
- Loss of sunlight from southern extension and green roof,
- Loss of privacy from southern extension and green roof.

Comments

- The proposed development complies with the preferred FSR for the site,
- The extension to the main building has maximum height below the DCP requirement of 7 metres for external wall height and translucent balustrade to allow light to reach the objector’s property,
- Planter boxes will be erected along southern edge of elevated roof and balustrade with obscure glass installed.

Rob Wilson – 32 Figtree Avenue

- Loss of sunlight access,
- Loss of natural vegetation and visual amenity

Comment
- Sunlight access will not be significantly reduced as objector’s site is located east of the subject site,
- There will be no significant vegetation lost by the proposal. The application has been referred to Council’s landscape technician for comment.

**Paula Isaousis – 7 Gilderthorpe Avenue**

- Reduction in sunlight access to rear private open space,
- Height of extension will have negative impact on amenity.

**Comment**

- Sunlight access unlikely to be impacted as multi-dwelling units at No.47 Market St have higher ridgeline that proposed development,
- Reduction of rear addition to single storey will reduce the visual bulk of the proposed development,

**Paula Mount – 9 Gilderthorpe Avenue**

- Loss of air flow,
- Loss of sunlight,
- Considerable overshadowing,
- Loss of privacy and potential noise increase.

**Comment**

- The rear addition has been reduced to a single storey structure and will not have significant impact on air flow, sunlight access and overshadowing,
- No windows will provide overlooking into adjacent properties.

**Marisa Pruscino – owner of 4/32 Figtree Avenue**

- Significant impact to visual amenity of immediate area,
- Overshadowing of clothes drying area at rear of her property.

**Comments**

- The rear addition clerestory will have a maximum height of 4.9 metres while the remaining addition will have a 3.4 metre height. These heights are considered not excessive for this type of development.
- Proposal will not affect sunlight access from 9am to 12pm for the site.

**Vince Connell and Angela Fehringer – Unit 2/32 Figtree Avenue**

- Loss of sunlight access,
- Loss of natural vegetation and visual amenity,
- Proposed FSR exceeds maximum permitted for the site,
- Landscaped area below minimum required,
Comment

- Loss of sunlight will be minimal and the single storey portion of the rear detached addition does not have sufficient height to provide significant overshadowing to the objector’s private open space,
- Proposal will result in the removal of a large palm to the rear of the site. However the large eucalyptus tree on the northern boundary will be retained and the proposed works include substantial revegetation of the site,
- The proposed development does not exceed the 0.51:1 preferred FSR for the site,
- The proposed development provides 44.5% of the site as permeable landscaped area.

The following objection was received during the notification period for amended plans from 16 January to 30 January 2006.

Vince Connell and Angela Fehringer – Unit 2/32 Figtree Avenue

- Disputes use of similar height, bulk and boundary setbacks of previous garage approval as precedent for this application,
- Proposed rear addition and clerestory will have a “major visual impediment” to the visual amenity of the immediate area,
- Landscaped area does not comply with the provisions of the draft DCP which requires 50% of the site to be landscaped area,
- There is a loss of natural vegetation from the site and proposal to remove major trees from the rear boundary will have a significant impact,
- No other properties in the area have ancillary structures of the scale of the proposed development,

Comment

- The proposed garage and studio development is single storey and will not have a significant impact on overshadowing or privacy loss to the rear property,
- The proposed additions are single storey and not excessive in height,
- The application provides landscaped area that complies with the DCP requirement to provide 40% landscaped area and 20% permeable landscaped area to soften the proposed structures and also meets the objectives of the Draft DCP – Dwelling Houses and Attached Dual Occupancies.
- The proposed development will require the removal of mature palm trees located on the site. However, Council’s landscape technician considered that the palm trees are either not covered by Council’s tree preservation order, undesirable species or not significant specimens,
- The proposed development will incorporate a suitable landscape plan to soften the appearance of the structures and provide a positive visual amenity to the surrounding area,
- Although other sites in the surrounding area do not have ancillary structures of this scale, it is considered the proposed development is compatible in scale and visual bulk to the existing dwelling and the adjacent residential flat buildings. The
proposed development will not be readily visible from the street or become a prominent visual element in the surrounding area.

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:

Engineering and Landscape Comments

The following comments were provided on 20 October 2005 and relate to the original proposal received on 27 September 2005.

On Council’s nature strip, to the south of the existing vehicle crossing, there is one Tristaniopsis laurina (Watergum) of only about 2 metres in height which appears in reasonable condition. This tree shall be retained, but will remain unaffected by the proposed works, and as such, conditions are not necessary and have not been included in this report.

There is one Plumeria acutifolia (Frangipani) of about 4 metres in height in the southwest corner of the site. This tree is too small to be covered by Council’s Tree Preservation Order, and as such, conditions have not been included in this report.

In the rear yard, along the northern boundary, there is one Corymbia maculata (Spotted Gum) of approximately 16 metres in height which appears in good condition, with a single, straight trunk and is covered by Council’s Tree Preservation Order.

This tree is considered to be a specimen of reasonable to high significance due largely to its size which provides a softening effect of the surrounding multi-storey unit blocks, while also serving shading, screening and amenity functions and providing a valuable food and habitat source for native fauna in such an urban situation.

This tree is a pertinent example of Council’s responsibility to retain established canopy cover over the competing interest of land development wherever possible and appropriate; and as such, the Planning Officer is advised that Council’s Landscape Technician does not support this application in its current form as there is no legitimate reason to support its removal on the grounds of health or condition.

As there appears adequate room to accommodate the proposed works in an alternative location of the rear yard that will not necessitate removal of this tree, it is requested that a new/amended proposal be submitted showing a minimum setback of 3.5 metres from the outside edge of its trunk to any excavation/building works.

However, it must also be noted that the engineers report for the previous application, DA 647/2003, Memorandum dated 06th August 2003, granted consent for the removal of this tree, subject to the planting of 1 x 75 litre sized replacement tree, to accommodate construction of a two storey double garage in the same location as the existing single garage.

Therefore, although not being Council’s preferred course of action, the applicant does have the option of removing this tree under the provisions of the previous consent.

Hard up against the northwest corner of the existing dwelling, there is one Syagrus romanzoffianum (Cocos Palm) of 8 metres in height. This species is no longer
covered by Council’s revised Tree Preservation Order, and as such, consent is not required for its removal whether related to the proposed works or not. There is one Phoenix canariensis (Canary Island Date Palm) in the rear yard, along the eastern boundary which appears to have grown from seed. This species is considered undesirable in the context of a suburban courtyard given its sharp and poisonous spines, and as such, Council would not object to its removal to accommodate the proposed works as shown. Near the centre of the rear yard, there is one Archontophoenix cunninghamiana (Bangalow Palm) of approximately 6 metres in height which appears in reasonable condition and is covered by Council’s Tree Preservation Order. This is not a significant specimen, and as such, Council would not object to its removal to accommodate the proposed works.

Engineering and Landscape Comments

The following comments were provided on 20 February 2006 and relate to the amended proposal received on 11 February 2006.

Landscaping Comments
Full landscaping comments and conditions in relation to the submitted amended plans will be forwarded to the Planning Officer upon return of the Landscape Development Officer.

Traffic / Civil Works Comments
Concerns are raised regarding the apparent inconsistency between the various submitted plans and documentation in regard to the existing external staircase on the northern side of the structure.

The applicant shall be requested to clarify (and amend plans where necessary) as to whether it is proposed to remove the existing external staircase within the current development application. Should the applicant propose to retain the staircase, it is noted that the driveway would be below the minimum domestic driveway width specified in AS2890.1:2004 and as such the proposed rear garage could not be supported.

The amended proposed development will remove the northern external staircase from the plans. The responsible officer confirmed this with the development engineer and no thus the comment does not apply. No further engineering comments required.

Final Landscape Comments

The following comments were provided on 8 March 2006 and relate to the amended proposal received on 11 February 2006.

On Council’s Market Street nature strip, to the south of the existing vehicle crossing, there is one Tristanopsis laurina (Watergum) of only about 2 metres in height which appears in reasonable condition. This tree shall be retained as it would remain unaffected by the proposed works, with conditions not necessary.
There is one Plumeria acutifolia (Frangipani) of about 4 metres in height in the southwest corner of the site. This tree is too small to be covered by Council’s Tree Preservation Order, and as such, conditions have not been included in this report.

Hard up against the northwest corner of the existing dwelling, there is one Syagrus romanzoffianum (Cocos Palm) of 8 metres in height. This species is no longer covered by Council’s revised Tree Preservation Order, and shall be removed in order to accommodate the proposed works as shown, with appropriate planting to be provided in its place.

There is one Phoenix canariensis (Canary Island Date Palm) in the rear yard, along the eastern boundary which appears to have grown from seed. This species is considered undesirable in the context of a suburban courtyard given its sharp and poisonous spines, and as such, will need to be removed as part of the proposed works.

Near the centre of the rear yard, there is one Archontophoenix cunninghamiana (Bangalow Palm) of approximately 6 metres in height which appears in reasonable condition and is covered by Council’s Tree Preservation Order. This is not a significant specimen, and as such, Council would not object to its removal to accommodate the works as shown.

In the rear yard, along the northern boundary, there is one Corymbia maculata (Spotted Gum) of approximately 16 metres in height which appears in good condition, with a single, straight trunk and is covered by Council’s Tree Preservation Order.

This tree is a pertinent example of Council’s responsibility to retain established canopy cover over the competing interest of land development wherever possible and appropriate, and as it is deemed to be a specimen of reasonable to high significance which is worthy of retention, the applicant will need to comply with Council’s requirements to ensure it remains a positive site element into the future.

The applicant was previously advised that Council’s Landscape Development Officer would not support the application in its original form, and therefore, it was recommended that amended plans be submitted showing a minimum setback of 3.5 metres from the outside edge of its trunk to any excavation/building works.

Amended plans have now been submitted showing a setback of only 2 metres, which could not be supported as Council’s revised Tree Preservation Order allows any trees (other than in heritage areas) which are located 2 metres from any part of a dwelling to be removed without consent, which is what needs to be avoided in this situation.

It is understood the applicant has verbally agreed to set back the garage a further 1.5 metres (to achieve the required 3.5 metre setback), by way of a deferred commencement condition, which has been included in this report together with relevant landscape and tree protection conditions.
The planning officer should determine whether amended plans showing the changes to the garage are required prior to the issuing of development approval.

Should the application be approved prior to amended plans showing the garage being set back 3.5 metres from the tree, the following deferred commencement condition shall be complied with prior to the consent becoming operational:

- Prior to this consent becoming operational, the applicant shall submit amended plans showing the garage structure being setback a minimum of 3.50 metres from the outside edge of the trunk of the Corymbia maculata (Spotted Gum).

7. 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.

7.1 Randwick Local Environmental Plan 1998

The site is zoned 2B (Residential B Zone) under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council’s consent.

7.2 Clause 46 - Development in the vicinity of heritage items, heritage conservation areas and known or potential archaeological sites

When determining an application for consent to carry out development on land in the vicinity of a heritage item, a heritage conservation area or a known or potential archaeological site, the Council must take into consideration the likely effect of the proposed development on the heritage significance of the heritage item, heritage conservation area or known or potential archaeological site and on its setting.

The purpose of this clause is to widen the consideration of heritage issues to development of land in the vicinity of heritage items, heritage conservation areas and known or potential archaeological sites.

The Randwick LEP 1998 heritage listed site “Hooper Cottage” circa 1848 at 17 Gilderthope Avenue is located 35 metres south east of the subject site. There is however unlikely to be any significant visual impact or adverse impact to the heritage conservation values of Hooper Cottage as the existing multi unit dwellings at No.32 Fig Tree Avenue and No.11-13 and No.15 Gilderthope Avenue provide a significant visual barrier towards the subject site.

The proposed development will be partially visible from the rear private open space of Hooper Cottage however it is not considered to form a significant visual element of the view westward.

7.3 Policy Controls
a. Dwelling Houses and Attached Dual Occupancies Development Control Plan (DCP)

The DCP for Dwelling Houses and Attached Dual Occupancies states that a proposal is deemed to satisfy the Objectives and Performance requirements of the DCP if it complies with the corresponding Preferred Solutions. Therefore, the tables below assess the proposal against the Preferred Solutions, and where non-compliance results, assessment is made against the relevant Objectives and Performance Requirements.

**Landscaping**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 40% of the total site area is provided as landscaped area.</td>
<td>44.5% of the site is landscaped area. Complies.</td>
</tr>
<tr>
<td>S1 A minimum of 25m² of useable private open space is to be provided.</td>
<td>The rear yard has an area of 120 sqm. Complies.</td>
</tr>
<tr>
<td>S1 Each dwelling must provide an area of private open space capable of containing a rectangle of minimum dimensions of 3m x 4m with minor changes in level.</td>
<td>The above area has dimensions of 10 x 9 metres and 7.5 x 4 metres. Complies.</td>
</tr>
<tr>
<td>S1 Private open space in the front yard area is located behind the building line.</td>
<td>The above area is located in the rear yard. Complies.</td>
</tr>
<tr>
<td>S6 20% of the total site area has permeable treatment.</td>
<td>40% of the site is permeable. Complies.</td>
</tr>
</tbody>
</table>

The Objectives of the DCP with regard to landscaping are that existing significant trees and landscaping are retained and enhanced; dwellings are provided with usable outdoor recreation space; storm water management and the appearance, amenity and energy efficiency of the dwelling is improved through integrated landscape design; and the native wildlife populations are preserved and enhanced through appropriate planting of indigenous vegetation.

The Performance Requirements are that the size and dimensions of landscaping suit the needs of the occupants; location and design of open space takes advantage of aspect for year round use; indigenous species are used and existing vegetation is recycled where possible; planting does not obstruct or interfere with entries; and unpaved areas are maximised to allow stormwater infiltration.

It is noted that Council’s landscape technician does not support the proposed location of the garage due to the potential damage it may have to the large eucalyptus tree on the site. However, an increase in the setback of the garage will ensure the retention and ongoing health of the tree. As such a deferred commencement condition has been included with the consent that will require the garage to be setback 3.5 metres from the trunk of the tree.
It is considered the proposed landscaping for the site will be integrated with the proposed structures and will soften the appearance of the development to the adjacent neighbours. The proposed private open space will have no significant adverse impact to the amenity of adjacent private open space or surrounding properties.

**Floor Area**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 The preferred solution for an allotment of this area is that a maximum floor space ratio of 0.51:1 applies.</td>
<td>The proposed FSR is 0.42:1. Complies.</td>
</tr>
</tbody>
</table>

The Objectives and Performance Requirements of the DCP are that developments are not excessive in bulk or scale; are compatible with the existing character of the locality; and minimise adverse effects of bulk on neighbours and the street.

The proposed additions to the existing dwelling and to the rear of the site will not have a noticeable impact to the streetscape. The additions to the existing dwelling and to the rear of the site are single storey and do not add significantly to the visual bulk of the building and will have minimal visual amenity impact to the adjacent neighbours.

It is considered the proposal satisfies the FSR performance requirements of the DCP and will not have an adverse visual impact to the surrounding area. The additions are considered suitable for the site.

**Height, Form & Materials**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 External wall height of the building not exceed 7m</td>
<td>The proposed garage has a maximum external wall height of 5.2 metres to the ridge line of the clerestory. The addition to the existing multi-unit housing building will have a maximum external wall height of 4.6 metres. Complies.</td>
</tr>
<tr>
<td>S3 Cut or fill does not exceed 1m.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>S3 No excavation within 900mm of a side boundary.</td>
<td>Some excavation will be required within 300mm of the rear boundary due to the proposed side setback of the rear addition.</td>
</tr>
<tr>
<td>S3 No excavation within 4m of a rear boundary.</td>
<td>Some excavation will be required within 300mm of the rear boundary due to the proposed rear setback of the rear addition.</td>
</tr>
</tbody>
</table>
Preferred Solution | Assessment
---|---
S4 The length of a second storey portion is no greater than 12m at less than 1.5m from a southern boundary. | Not applicable.

The Objectives of the DCP are that developments should not be excessive in height and scale and be compatible with the existing character of the locality; to ensure impacts in terms of privacy, natural light and views are minimised; and with respect to additions that they not detract from the individual character and appearance of the existing dwelling.

The relevant Performance Requirements are that the height of buildings should relate to those in the existing streetscape and the topography; buildings be designed to enhance the existing desirable built form character of the street by adopting where relevant characteristics of mass and proportion, materials and finishes, roof form and pitch, facade articulation, window and door location and proportions, and verandahs, eaves and parapets; with respect to additions to semi-detached dwellings they integrate with the attached dwelling; and views are shared.

While the proposed southern extension of the existing multi-unit building will have an external wall height that is consistent with the preferred solution maximum wall height the addition of the balustrade will result in a total height that is 4.7 metres. The infill panelling for the proposed balustrade will be a translucent material that is considered to have less visual impact than a solid structure such as brick or timber clad wall.

The balustrade structure will be light weight and a visually recessive feature of the proposed family room extension, furthermore the mass and proportion is consistent with the existing dwelling and presents a built form that has a greater rear setback than the existing structure on this side of the site.

The maximum parapet height of the proposed rear garage and studio, excluding the clerestory roof feature, will be 100mm higher than the ridge line of the existing garage on the subject site. The proposed garage and studio is considered to be a modest built form that will not dominate the rear private area of surrounding dwellings. The impact on visual amenity to the surrounding neighbours as a result of the rear garage and studio development will be minimal.

Building Setbacks

| Preferred Solution | Assessment |
---|---|
S1 Front setback is average of adjoining dwellings or 6m. | Not applicable. |
S2 No part of the building is closer than 4.5m from rear boundary. | The proposed rear detached addition is 0.2 from the rear boundary. Does not comply – see assessment below. |
S3 Side setbacks be 900mm for any part of the building at ground level. | The proposed rear detached garage/addition is set back 0.3 metres from the side boundaries. Does not comply – see assessment below. |
Preferred Solution | Assessment
--- | ---
S3 Side setbacks be 1.5m at second floor level. | Not applicable.
S3 Side setbacks be 3.0m at third floor level. | Not applicable.

The Objectives and Performance Requirements of the DCP seek to ensure that there is adequate access to sunlight, daylight and fresh air to building occupants and neighbours; and with respect to front boundary setbacks the proposal generally conform to the adjoining development or dominant streetscape.

The proposed garage and attached studio rooms to the rear of the site have a rear setback less than the preferred solution as prescribed in the DCP and is located 1m closer to the rear boundary than the existing garage. The proposed rear garage will feature a clerestory feature that will have a maximum height of 5.3 metres which is 1.7 metres higher than the existing garage on the site, however this increase in height is considered to have minimal impact on overshadowing as a majority of overshadowing will be to the rear private open space of the subject site.

The surrounding area does not have a dominant rear setback or a consistent rear building line that could be adopted by this development. The adjacent residential development along this side of Market Street includes multi-unit residential dwellings to the north and a single residential dwelling sited on a smaller regular shaped lot to the south. The rear setback for the multi-unit dwellings to the north of the subject site varies from approximately 1 metre to 8.5 metres.

The dwelling to the south has a rear boundary setback of about 6.6 metres. The subject site features an existing garage with a 1.1 metre rear setback and the adjoining property to the east has a garage with a rear setback of approximately 1 metre.

It should be noted that the previous development application approved for the subject site for a double car garage adopted a rear and side setback of 100mm and 200mm respectively. These side setbacks have been slightly increased by the current development application and it is considered that the visual impact will be less than the previous approved garage.

The potential impact on visual amenity and overshadowing is considered to be minimal as the additions will be single storey and the clerestory roof feature is setback from the northern boundary by 2.3 metres.

It is considered the setbacks for the proposed development are consistent with the performance requirements of the DCP and will not have a significant impact to the amenity of adjacent neighbours.
Visual & Acoustic Privacy

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 Habitable room windows within 9m of another dwelling’s windows are offset by 45 degrees or have fixed obscure glazing below 1.5m above floor level.</td>
<td>The proposal does not have any habitable room windows that overlook those of adjoining dwellings within 9 metres. Complies.</td>
</tr>
<tr>
<td>S1 Direct view into open space of an adjoining dwelling is obscured or screened within 9m and is beyond a 45 degree angle.</td>
<td>The first floor rear decks will overlook the rear yard areas of the adjoining properties. Does not comply – see assessment below.</td>
</tr>
<tr>
<td>S1 Windows have sill heights of 1.5m or more or fixed obscure glazing below that height.</td>
<td>All additional windows to the site will be to the ground floor and there sill height levels will have no impact to privacy. Not applicable.</td>
</tr>
<tr>
<td>S3 Buildings comply with AS 371 and AS 2107.</td>
<td>Conditioned to comply with the BCA.</td>
</tr>
</tbody>
</table>

The Objective of the DCP is to ensure that new buildings and additions meet the occupant and neighbours requirements for visual and acoustic privacy.

The Performance Requirements include that overlooking of internal private living areas is minimised through appropriate building layout, location and design of windows and balconies; and separation, screening devices and landscaping be used to assist in minimising privacy impacts.

The proposed rear deck attached to the existing multi-unit building will provide an opportunity to overlook into the rear private open space of dwellings to the south and south east. The proposed *magnolia grandiflora* trees to be planted along the southern boundary on the subject site will provide some privacy screening and reduce the potential overlooking to the south eastern neighbours.

The proposed 600mm wide planter boxes to the southern and eastern sides of the proposed deck will provide additional visual screening and ensure the appearance of the deck is softened by vegetation. The proposed privacy screen to the southern side of the deck will reduce overlooking to the south significantly and the solid translucent screening material will provide some acoustic privacy.

The proposed first floor rear deck to the main bedroom will have minimal overlooking into adjacent private open space and is considered to have no significant adverse impact on privacy of neighbouring properties.

Garages & Driveways

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 Council’s Parking DCP requires 1 space, for dwellings with 2 bedrooms or less, or 2 spaces, for dwellings with 3 bedrooms or more.</td>
<td>The proposed dwelling has parking for 2 cars. Complies.</td>
</tr>
</tbody>
</table>
**Preferred Solution** | **Assessment**
---|---
S1 | Car parking spaces have a minimum dimension of 5.5m x 2.5m.
| The dimensions of the parking spaces are 5.2 x 2.5 metres. Does not comply – see assessment below
S1 | Driveways have minimum width of 3m and are set back at least 1m from the side boundary.
| The proposed driveway is 3 metres wide and is set back at least 1 metre from the side boundary. Complies.
S1 | Driveways have a maximum width of 3m at the property boundary.
| The proposed driveway is 3 metres at the front boundary. Complies.
S1 | Driveway gradients should not exceed a maximum of 1 in 8 for the first 5m from street alignment and 1 in 6 thereafter.
| The proposed driveway gradient is less than 1 in 8. Complies.
S1 | With respect to garages and carports to rear lanes these should be set back 1m to improve pedestrian visibility.
| Not applicable.
S2 | Parking and access is provided from the rear of the allotment where possible.
| Not applicable.
S2 | Garages and carports located behind the building line where parking only available from the front of the site.
| The proposed garage is located behind the building line. Complies.
S2 | Driveways, car parking spaces and structures do not occupy more than 35% of the width of the allotment
| The proposed garage occupies about 21% of the width of the site frontage. Complies.

The Objectives and Performance Requirements of the DCP include that car parking and driveways are not visually obtrusive and do not detract from the appearance of the dwelling and the street scape; and structures are compatible in scale, form, materials and finishes with the associated dwelling.

The proposed garage will have adequate space to accommodate two vehicles, however as the combined car parking spaces will be 300mm less than the DCP preferred solution manoeuvrability into those spaces may be constrained. The proposed driveway will be approximately 30 metres in length and will provide substantial car parking space for any additional vehicles.

The proposed development will maintain the location of the existing driveway and garage and will not result in a significant adverse impact to the surrounding area.

**Fences**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1</td>
<td>Existing sandstone fences and walls are retained/recycled.</td>
</tr>
<tr>
<td></td>
<td>Not applicable.</td>
</tr>
</tbody>
</table>
**Preferred Solution** | **Assessment**
---|---
S1 | Solid front fences or on street frontages in front of the building line are no higher than 1.2m. | Not applicable. |
S1 | Fences in front of the building line or on street frontages may be up to 1.8m provided that the upper two thirds is at least 50% open. | The proposed front fence has a maximum height of 2.2 metres. Appropriate conditions will be imposed to ensure that the infill panels are at least 50% open and that the maximum height of the fence is 1.8 metres. Complies. |

Generally, the Objectives and Performance Requirements for fences in the DCP are to ensure that front fencing is integrated with the streetscape and is compatible with the appearance of the dwelling and any established local fence form and material.

The proposed front fence will have a maximum height that exceeds the preferred solution by 400mm. Generally the design of the fence is suitable for the site and will be compatible with the dominant streetscape. To address the height of the front fence, a condition has been included that imposes a maximum height of 1.8 metres and infill panelling that is 50% open to ensure the front fence does not dominate the front of the site and integrates with the dwelling.

**Solar Access and Energy Efficiency**

<table>
<thead>
<tr>
<th><strong>Preferred Solution</strong></th>
<th><strong>Assessment</strong></th>
</tr>
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</table>
S1 | New dwellings comply with a minimum of 3.5 stars on the NatHERS. | Not applicable. |
S2 | Private open space receives at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June. | The rear yard will receive at least 3 hours of sunlight. Complies. |
S2,8 | North-facing windows to living areas receive at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June. | The proposal includes north-facing windows that will receive at least 3 hours of sunlight. Complies. |
S9 | Solar access to existing or future solar collectors on adjacent buildings is maintained between 9am and 3pm each throughout the year. | The proposal will not overshadow solar collectors on adjoining properties. Complies. |
S9 | North-facing windows to living areas of neighbouring dwellings receive at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June. If currently less than 3 hours, it is not further reduced. | The proposal will not reduce solar access to less than 3 hours on north-facing windows. Complies. |
ITEM 5.1

Preferred Solution

S9 Principal outdoor recreation space of neighbouring dwellings receive at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June. If currently less than 3 hours, it is not further reduced.

Assessment

The proposal will not reduce solar access to private open space to less than 3 hours. Complies.

8. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.

9. CONCLUSION

The proposal complies with the relevant assessment criteria and the objectives and performance requirements of the DCP for Dwellings and Attached Dual Occupancies. The proposed additions to the existing multi-unit building are of compatible scale with the existing building and the rear detached addition will not have an adverse visual impact to the adjacent neighbours. The proposed landscaped areas will soften the appearance of the development and will provide some screening to reduce potential overlooking into surrounding properties. Although some side and rear setbacks do not satisfy the preferred solution in the DCP, it is considered the overall siting of proposed structures and additions will not have a significant detrimental impact on the amenity of surrounding residents. The proposed development will not result in any adverse impacts upon either the amenity of the adjoining premises or the character of the locality.

The application is therefore recommended for approval.

RECOMMENDATION:

A. THAT Council as the responsible authority grant its development consent under the provisions of Section 80 (3) of the Environmental Planning and Assessment Act 1979 (as amended), “Deferred Commencement” to Development Application No.779/2005 for change of use from multi-unit housing to a dwelling house, demolition of the rear garage and construct a new rear single storey garage and studio with high clerestory roof and alterations and additions including new rear extension with first floor deck and new front fence with driveway gate at 45 Market Street, Randwick subject to the following conditions:-

Deferred Commencement Conditions

The consent shall not operate until the applicant satisfies Council as to the following matters, to the satisfaction of the Director of City Planning:-

1. Amended plans shall be submitted that setback the proposed garage a minimum of 3.50 metres from the outside edge of the trunk of the Corymbia maculata (Spotted Gum).
Subject to compliance with the deferred commencement condition, 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:

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:

1. The development must be implemented substantially in accordance with the plans numbered DA05D, DA06D, DA09D, DA12D and DA13D dated 7 February 2006 and received by Council on 10 February 2006, and DA10B dated 10 January 2006 and received by Council on 17 February 2006, the application form and on any supporting information received with the application, except as may be amended by the details approved pursuant to the deferred commencement condition and the following conditions and as may be shown in red on the attached plans:

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

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council’s Director of Planning & 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 relevant building works.

3. The external materials, colours and finishes of the building are required to match, as closely as possible, the existing building.

4. Metal roof sheeting is to be painted or colour bonded to minimise reflection and to be sympathetic and compatible with the building and surrounding environment.

5. 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.

6. 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.

7. The fence on the street alignment is to be a maximum height of 1.8m and be designed so that the upper two thirds of the fence is at least 50% open, to maintain reasonable levels of amenity to the adjoining residential development and the streetscape. Details of compliance are to be provided in the construction certificate plans.

8. The premises is to be used as a single residential dwelling only at all times and must not be used for dual or multi-occupancy purposes.
The following conditions are imposed to promote ecologically sustainable development and energy efficiency.

9. 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.

10. New 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.

11. New 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.

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

12. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

13. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:
14. 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.**

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

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

17. **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.

18. 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.

19. 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; and
- a statement stating that “unauthorised entry to the work site is prohibited”.

20. 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.

21. **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.
22. 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 provisions 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 principal building contractor and compliance with the provisions of the Home Building Act 1989 (i.e. Details of the principal licensed building contractor and a copy of the Certificate of Insurance) are to be submitted to Council prior to the commencement of works, with the notice of appointment of the PCA / notice of intention to commence building work.

23. 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 0.2% of the cost of the works.

24. Smoke alarms are required to be installed in each Class 1 building or dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling
containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located in ‘dead-air-spaces’, in the corner junction of walls and ceilings between exposed rafters/joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the Building Code of Australia – Housing Provisions.

Details of compliance with the provisions of the Building Code of Australia must be included in the plans/specification for the construction certificate.

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

25. 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.

26. 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.

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

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

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

28. 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.

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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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

34. 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.
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.

35. 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.

36. 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.

37. 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.

The following conditions are applied to maintain reasonable levels of public health, amenity and safety:

38. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City
Council’s Asbestos Policy and the relevant requirements of WorkCover NSW and the NSW Department of Environment & Conservation (formerly the Environment Protection Authority), including:

- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.

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


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

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

The Demolition Work Plan must be submitted to Council and the Principal Certifying Authority (PCA) if the Council is not the PCA, not less than two (2) working days before commencing any demolition works involving asbestos products or materials. A copy of the Demolition Work Plan must also be maintained on site and be made available to Council officers upon request.

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

40. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 200 m2 of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must
only be undertaken by contractor that holds a current friable asbestos removal licence.

41. On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.


Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.

43. A Certificate or Statement, prepared by a suitably qualified person (ie an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the works (prior to an Occupation Certificate being issued), which confirms that the relevant requirements contained in the Asbestos Survey and conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied.

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

44. Prior to the issue of an occupation certificate, the applicant must meet the full cost for Council or a Council approved contractor to:

1. Reconstruct the concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site;

2. Reconstruct any damaged sections of the concrete footpath along the full site frontage (Any unpaved areas on the nature strip must be turfed and landscaped to Council’s specification); and

3. Reconstruct any damaged sections of the kerb and gutter along the full site frontage.

45. 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.
46. 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.

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

47. The Council’s Development Engineer has inspected the above site and has determined that the design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, shall:

- Match the back of the existing footpath along the full site frontage.

Any enquiries regarding this matter should be directed to Council’s Development Engineer on 9399 0923.

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

48. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate.

49. The above alignment levels and the site inspection by Council’s Development Engineer has been issued at a prescribed fee of $121.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

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

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

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

51. That part of the naturestrip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant’s expense prior to the issue of a final
Occupation Certificate.

Tree Management

52. Approval is granted for the removal of the following trees subject to the planting of 3 x 25 litre (pot size) broad canopied replacement trees (not palms) suitably located in the rear yard of the site. The species selected shall be those which will attain a minimum height of between 4-7 metres at maturity.

1. One Syagrus romanzoffianum (Cocos Palm) hard up against the northwest corner of the existing dwelling,
2. One Phoenix canariensis (Canary Island Date Palm) in the rear yard, along the eastern boundary,
3. One Archontophoenix cunninghamiana (Bangalow Palm) near the centre of the rear yard.

Tree Protection Measures

53. In order to ensure the retention of the Corymbia maculata (Spotted Gum) in the rear yard, along the northern boundary 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 with the position of its trunk and full diameter of its canopy clearly shown on all drawings.

b. Detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show no alteration in the existing soil levels or the location of any stormwater or drainage works within a radius of 3.50 metres from the outside edge of its trunk.

c. Detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show that any section of driveway which passes within a distance of 3.50 metres from the outside edge of the Corymbia maculata (Spotted Gum) shall be constructed using a porous/permeable material in order to maintain sufficient air and moisture exchange to the rootzone. Details demonstrating compliance with this condition shall be shown on the plans submitted for the construction certificate, to the satisfaction of the certifying authority.

d. The tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing which is to be located a minimum distance of 2.5 metres off the western, southern and eastern sides of its trunk to completely enclose the tree.
This fencing shall include signage which clearly displays the wording: “TREE PROTECTION ZONE”, "DO NOT ENTER", and is to be installed prior to the commencement of demolition and construction works and shall remain in place until all works (excluding works associated with the permeable driveway within the tree protection zone) are completed.

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

f. Any excavations required for footings, structures, paving etc within 4 metres of the tree trunk shall be undertaken by hand and under the direction of, and to the satisfaction of, a suitably qualified Arborist with any roots needing to be cut to be done using hand held pruning tools, with the area to be backfilled as soon as practically possible.

g. The installation of either Eucalyptus leaf mulch or woodchip mulch to a depth of 75mm within the fenced off protection area as described in Point d.

Advisory Conditions

A1 Building or excavations works must not be commenced until a construction certificate has been obtained from Council's Building Certification Services or an Accredited Certifier and either Council's Building Certification Services or an Accredited Certifier has been appointed as the Principal Certifying Authority (PCA) for this development.

Failure to obtain a Construction Certificate and appoint a PCA before commencing works is an offence, which renders the responsible person liable to a maximum penalty of $1.1 million under the Environmental Planning & Assessment Act 1979.

A2 The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA) and the construction certificate must not be inconsistent with the development consent.

In this regard, the development consent plans do not show compliance with the deemed-to-satisfy provisions of the BCA.

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.

You are therefore advised to ensure that the development is not inconsistent with Council's consent and to consult with Council’s Building Certification Services or an accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.
A3 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

ATTACHMENT/S:

Nil

SIMA TRUUVERT
DIRECTOR, CITY PLANNING

PATRICK LEBON
DEVELOPMENT ASSESSMENT OFFICER
Development Application Report

REPORT BY: DIRECTOR, CITY PLANNING

DATE: 29 May, 2006  FILE NO: DA/945/2005

PROPOSAL: Demolition of existing buildings on the site and construction of new 4 storey multi-unit housing development containing 10 dwellings and basement carparking for 15 vehicles

PROPERTY: 118-120 Mount Street, Coogee

WARD: East Ward

APPLICANT: Nix Management PTY LTD

OWNER: L L Cohn Pty Ltd, Mr DL Urbach, Mr EE Cohen, Mr SP Nemes

Subject Site

Submissions received

North

LOCALITY PLAN
1. EXECUTIVE SUMMARY

The application is referred to Committee as it is valued at $2.45 Million.

The applicant is seeking approval to demolish the existing buildings on the site, excavate and construct basement carparking for 15 cars, and a new 4 storey multi unit housing development on the site at 118-120 Mount Street, Coogee.

The development does not comply with the numeric standards for overall landscaping, height and FSR in the 2(C) zone, however the design of the proposal has limited its impact on surrounding properties. Council’s Design Review Panel has made an assessment of the development against the principles of good residential design and considers the proposal to be satisfactory. The development will not result in significant additional amenity impacts to surrounding properties. Where elements of the proposal have been assessed as having a negative impact on amenity, these impacts may be mitigated via conditions of consent. The redevelopment of the site will improve the amenity of the area by increasing parking provision with a similar density to that already existing on the site (two additional residential units). The proposal will also increase the variety of residential accommodation in the area by providing a greater mix of units.

The application has been notified to surrounding properties. The notification and advertising period has resulted in 5 submissions. The submissions raised the following issues as primary concerns:

- Privacy impacts
- Excessive height and density, bulk and scale and impact on character and the street
- Inadequate landscaping
- Inadequate parking and existing traffic and parking congestion in the area
- Concern over non-compliance with statutory standards and likelihood of precedent being set for future development in the area

This report recommends approval of the application for the redevelopment of 118-120 Mount Street, Coogee subject to conditions.

2. THE PROPOSAL

The applicant is seeking approval to demolish the existing buildings on the site and construct a total of 10 units over four storeys (3 x 1 bedroom, 6 x 2 bedroom and 1 x 3 bedroom units) with basement carparking for 15 cars, accessed from Dudley Street.

The main pedestrian entry to the site will be from Dudley Street via a louvred breezeway structure that provides circulation on each floor and access to the lift. Individual entries to ground floor units are also provided from Mount Street. The vehicular entrance to the basement carpark is provided from Dudley Street.

The applicant proposes landscaping to the front, rear and sides of the site to create communal and private areas of open space.

3. THE SUBJECT SITE AND SURROUNDING AREA:
The proposal relates to a regular shaped corner site with frontages to Mount and Dudley Streets in Coogee. The site has a total site area of 740.8m² and consists of two allotments as follows:-

- No. 118 Mount Street identified as Lot 1 in DP 942294;
- No. 120 Mount Street identified as Lot 2 in DP 942294;

Existing on the site are two, two storey residential flat buildings. 118 Mount Street was constructed in the early 1970’s and 120 Mount which appears to be from an earlier time, possibly 1930’s. Each building contains 4 x 2 bedroom units. 118 Mount Street has 4 garages below street level, accommodated by the slope of the site. There is currently no off street parking provision to the building at 120 Mount Street.

The subject site is a regular- shaped corner site bounded by Dudley Street to its south with a frontage of 24.74m, Mount Street to its east with a frontage of 29.945m. The northern (side) and western (rear) boundaries measure 24.74m and 29.945m, respectively. The site falls from the east to west a maximum of 2.5 metres.

The site has a common boundary, to the north, with No. 116 Mount Street containing a 3-4 storey residential flat building and to its west, with No. 23 Dudley Street, containing a 2-3 storey residential flat building. Located to the east opposite the site, across Mount Street, is a 2 storey residential flat building (29 Dudley Street). To the southeast on the corner of Mount and Dudley Street is a two storey dwelling house. Opposite the site to the south across Dudley Street the zoning changes from 2C to 2A. Development to the south of the site is comprised of large freestanding dwelling houses generally having a two storey scale.
Above: 116 Mount Street adjacent the site to the north

Above: 29 Dudley Street opposite the site to the east (across Mount St)

Above: 46 Dudley Street opposite the site to the south (across Dudley St)

Above: 23 Dudley Street adjacent the site to the west

Above: 48 Dudley Street diagonally opposite the site to the southeast
4. SITE HISTORY

a. APPLICATION HISTORY

A pre-lodgement meeting was held on 5 May 2004 for an 4 storey multi unit housing development comprising 12 units. Significant concern was raised at the pre-lodgement meeting over the degree of non-compliance with Council’s statutory and policy controls including an FSR of 1.59:1 and non-compliance with carparking requirements. As a result of Council’s comments, the applicant did not pursue referral to the Design Review Panel at that time.

The applicant reviewed the proposal in light of the pre-lodgement comments and submitted a revised proposal to the Design Review Panel for comment in May 2005. The amendments reduced the FSR to 1.28:1 and reorganised the built form, to a linear arrangement with circulation at the rear in the form of a breezeway. In relation to density, the Panel commented that:

*It is noted that the proposed density is in excess of that permitted in the DCP. Such an exceedance could not be supported, unless it is demonstrated that the extra space has no adverse effects on nearby spaces or buildings. As indicated above the Panel does not consider that the proposed configuration of the building would have an adverse effect on the streetscape.*

*It is understood that the FSR calculations supplied need to be redone in accordance with the wording of the RCC LEP.*

The conclusion of the Panel was as follows:

*The Panel commends the client and the architects on the high quality of design and architectural response.*

*Minor discrepancies with the height of the existing building and its relationship to the neighbour in Dudley Street should be checked.*

*Following a review of the floor space, the Panel considers that the DA should progress to subsequent stages of assessment.*

On the basis of this advice, the current application was lodged on 14 November 2005. The application was referred to the December Design Review Panel meeting and additional details and amendments were sought from the applicant as a result of internal referrals and Design Review Panel advice on 5 January 2006 and 9 February 2006. These additional details were received on 11 April 2006. The additional information did not substantially amend the original application and as such further notification and advertising was not required. These details, along with the original submission are the subject of this assessment.

5. COMMUNITY CONSULTATION:

The proposal has been notified and advertised in accordance with the *DCP for Public Notification of Development Proposals and Council Plans*. The following submissions were received:
5.1 Objections

1. P.Thakrar, 13/116 Mount Street, Coogee

   - Overshadowing
   
   **Comment:** There will be no overshadowing to 116 Mount Street as a result of the proposal as 116 Mount Street is to the north of the subject site.

   - Overlooking into top floor unit where currently there is no overlooking
   
   **Comment:** Privacy and in particular overlooking to 116 Mount Street has been discussed in detail in Section 9.8.

   - Loss of leafy outlook
   
   **Comment:** Council’s Development Engineer has made comment on the proposed landscaping including trees proposed for removal and considers the proposal to be satisfactory. Replacement plantings 6-15 metres in height and new gum trees up to 20 metres in height are proposed that will maintain a leafy outlook for surrounding properties and contribute to the landscape presentation of the site to the street.

   - Proposal is inconsistent with Randwick’s 20 year plan in terms of excellence in urban design, healthy environment, looking after the environment and sense of community
   
   **Comment:** Notwithstanding that the City Plan is not a relevant planning document for consideration, the proposal will not hinder the achievement of the strategic objectives contained within this document. The proposal has been assessed by Council’s Design Review Panel as being of high design quality, and the development attains the environmental benchmarks set by the SEPP: BASIX. The community has been consulted with regard to the application and although some objections have been received the majority of the community have not responded to the notification and this indicates the proposal is generally supported or considered to be of negligible impact.

2. Alldis & Cox Real Estate Agents, PO Box 335, Coogee (on behalf of Strata Plan 61053, 29 Dudley Street, Coogee)

   - Height and bulk, non-compliance with standards

   **Comment:** Non-compliance with statutory standards alone cannot be used to justify refusal of the application. The impacts of non-compliance have been assessed and are considered negligible. Discussion of impacts is provided in Section 9.1 of this report.

   - Building, if approved, will set undesirable precedent for larger buildings that do not comply with standards

   **Comment:** Each application is assessed individually on its merits. The existing context in Mount Street is of a range of buildings, some of which predate Council’s
current controls and provide a context of larger bulkier buildings than the current proposal.

- Overshadowing, particularly midwinter afternoons

**Comment:** Overshadowing impacts are discussed in Section 9.10. There will be no impact of the proposal on 29 Dudley Street.

- Height and bulk is inconsistent with character of the area

**Comment:** The height and bulk of the proposal have been minimised by the use of materials and articulation of the building form. The proposal is considered to be consistent with the character of the area. Council’s Design Review Panel has also assessed the development in terms of the existing context and concluded that the development is consistent with, and will make a positive contribution to the mixed character of the area.

- Loss of significant gum tree and leafy outlook

**Comment:** Council’s Development Engineer has made comment on the proposed landscaping including trees proposed for removal and considers the proposal to be satisfactory. Replacement plantings 6-15 metres in height and new gum trees up to 20 metres in height are proposed that will maintain a leafy outlook for surrounding properties and contribute to the landscape presentation of the site to the street.

- Overdevelopment

**Comment:** The proposal can be accommodated on the site with negligible impact to surrounding properties and the street and is therefore not considered to be an overdevelopment of the site.

- Inadequate parking

**Comment:** The parking provision complies with the requirements of the DCP – Parking and is considered adequate for the development proposed. In addition, existing development on the site is deficient of parking by 8 spaces and the proposal will address this existing inadequacy.

- Application should be refused as it is not in the community’s interest

**Comment:** The replacement of the existing buildings on the site including an additional two units is considered to have minimal impacts on the amenity of surrounding residents or on the area as a whole. The streetscape presentation of the site will be improved as will amenity for residents on the site. The proposal is considered to be in the public interest.

3.  **W. Harris & A. McEgan, 2/23 Dudley Street, Coogee**

- SEPP 1 objection is unreliable and misleading as it is not independent and does not discuss impacts on 23 Dudley Street
Comment: SEPP 1 objections can only be lodged by the applicant, concern over the ‘independency’ of such a document is therefore unfounded. The objections are, however assessed (see assessment in Sections 9.1, 9.2 and 9.7 of this report). Impacts on 23 Dudley Street have also been discussed throughout this report and the proposal is considered to result in negligible impact to 23 Dudley Street.

- On street parking will be reduced by 2 spaces due to the vehicular crossover

Comment: One on street parking space will be lost as a result of the vehicular crossover. However, there will be no net ‘loss’ as the existing crossover on Mount Street will be removed and made good as a result of this proposal. The overall effect of the development on onstreet parking will be positive as the provision of basement parking will remove the existing on-site deficiency of 8 spaces.

- Increased road use

Comment: The increase in traffic as a result of provision of two additional dwellings is considered to be negligible. The change in unit mix will provide for a larger unit which is likely to generate less trips than smaller dwellings.

- Proposal will be overbearing due to the lower ground levels at 23 Dudley Street

Comment: The visual bulk and scale impacts of the proposal on 23 Dudley Street have been mitigated by the limiting of the building footprint to approximate that of the existing buildings on the site and maintaining existing setbacks. The primary aspect for 23 Dudley Street is to the south (Dudley Street) and north (rear) of that property and not to the east (towards the subject site). The louvred screen which will face 23 Dudley Street will provide adequate articulation and detail to the façade to minimise visual bulk and scale impacts.

- Landscaping proposal is misleading, 23 Dudley Street complies with LEP landscaping requirements.

Comment: Landscaping has been discussed in Section 9.7, below and is considered to be satisfactory. The applicant’s calculations of landscaped area on the site have been checked and are accurate. Landscaping calculations for adjoining sites are not required or relevant to assessment.

- Removal of corridor between existing buildings on the site will remove access to light and ventilation currently enjoyed by 23 Dudley Street

Comment: Overshadowing impacts are discussed in Section 9.10. There will be no additional impact to habitable areas of 23 Dudley Street and an improvement at certain times of day as a result of the proposal. The proposal is unlikely to have a significant impact on breezes and ventilation due to the retention of setbacks on the site.
Above: Existing rear (northern) elevation of 23 Dudley Street will not be overshadowed by the proposal and solar access will be improved at some times throughout the day.

- Non-compliance with height standard

**Comment:** Height is discussed in Section 9.1 of this report. Impacts of non-compliances are considered more critical than non-compliances themselves.

- Width of driveway from Dudley Street inadequate for two way traffic under Traffic Authority guidelines, increased width will further reduce landscape provision.

**Comment:** The width of the driveway is adequate under Australian Standards and the DCP – Parking. Reduction of the driveway width (to the minimums allowable under AS 2890.1 and the DCP) was discussed to increase landscaping, however due to the curvature of the driveway and its length the width proposed was considered reasonable.

- Application should be refused

**Comment:** The result of this assessment is that the impacts of the development are considered satisfactory and the development is recommended for approval. The application is referred to Council for final determination as the cost of the works exceeds $2 million.

4. **S.Kelly & S.Haywood, 41 Byron Street, Coogee**

- Proposal is inconsistent with the existing character of the area which is dominated by 2-3 storey buildings.

**Comment:** The top floor of the proposal is inset from the walls below providing the perception of a three storey scale to the street. The development is considered to be consistent with the prevailing character in the street and will improve the existing presentation of the site from the street.

- Applicant has not assessed the development against the design principles of SEPP 65, in particular the principle of Context and Amenity

**Comment:** The Design Verification Statement submitted by the applicant included discussion of these principles. In addition, Council’s Design Review Panel has made comment that the development is satisfactory with regard to the principles of good design, including *Context* and *Amenity*. 
ITEM 5.2

Exceeds FSR and height and these non-compliances are not justified, top floor should be deleted to enforce compliance

**Comment:** The non compliances have been assessed and are considered to be satisfactory as they will not result in amenity or streetscape impacts (see discussion under Sections 9.1 and 9.2 of this report).

5. **Alldis & Cox Real Estate Agents, PO Box 335, Coogee (on behalf of Strata Plan 22508, 23 Dudley Street, Coogee)**

- Resubmission of letter by W. Harris and A. McEgan, see discussion above

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 **Manager, Environmental Health and Building**

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

**Environmental Health Comments**

**The proposal**

*The proposal is to demolish two (2) existing residential flat buildings and erect a four (4) storey multi unit housing development comprising basement car parking and a total of ten (10) dwellings, to be located at 118 – 120 Mount Street, Coogee.*

**Key Issues**

*Noise from plant and equipment*

*The Statement of Environment Effects submitted with the development application has not addressed potential noise emanating from the carpark exhaust and lift for the proposed development and therefore an acoustic report is to be submitted with this application. An acoustic report is required as the proposed development may impact on the amenity of the surrounding residential properties.*

*Contamination*

*The statement of environmental effects does not detail that a potentially contaminating activity has occurred previously on the subject premises and therefore it is considered that no further information is required under Council’s Contaminated Land Policy.*

*Rainwater tanks*
Standard conditions in relation to the installation and operation of proposed rainwater tanks should be attached by the relevant Assessing Officer.

RECOMMENDATION

Should the approval be granted to the application, the following conditions should be included in the development consent:

Building Comments

The Proposal

The proposal provides for the demolition of the existing 2 residential flat buildings and construction of a new 4 storey Multi Unit Housing residential development.

BCA Building Classification

Class   -  2     (Residential Units)
Class   -  7a    (Carpark)

Background

The existing buildings on site are 2 storey brick RFBs bounded by buildings of a similar nature.

Key Issues

Noise:
There is potential for the generation of noise from the proposed development due to the installation of plant and equipment, such as any mechanical exhaust system serving the basement car park. Conditions should be imposed on the consent to address potential noise emissions from the development. See Environmental Health Officers report.

Site Management:
Standard conditions are proposed to be included in the consent to address construction site management issues, such as the location of stock piled material or the storage and disposal of excavated materials, sediment and erosion control, public safety and perimeter safety fencing.

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 is required to be incorporated in the documentation for a construction certificate.

Access for people with a disability:
Although access and facilities for people with disabilities is not required under the Building Code of Australia, wherever practicable the entrance to a multi unit housing development should aim to facilitate some degree of accessibility to the building.
**Conclusion:**
No objections are raised in relation to the proposed development, subject to the following conditions being included in any development consent.

**RECOMMENDATION:**
Should the approval be granted to the application, the following conditions should be included in the development consent.

Conditions suggested by the Manager, Environmental Health and Building have been included in the Recommendation section of this report (see Conditions 24-65).

**6.2 Development Engineer**

Council’s Development Engineer has provided the following comments in relation to the application:

An amended application has been received for the construction of a residential flat building at the above site containing 10 units with basement carparking for 15 vehicles.

**This report is based on the following plans and documentation:**
- Statement of Environmental Effects by Don Fox Planning dated October 2005;
- Documentation from Transport and Traffic Planning Associates received 6 April 2006;
- Flood Study by Healey Castle & Associates dated March 2006;
- Garage Basement Floor Plan DA01 Rev F by Koopman Architects dated 26 March 2006;
- Ground Floor Plan DA02 Rev F by Koopman Architects dated 26 March 2006; and

**Landscape Comments**

Beyond the southern boundary, along Council’s Dudley Street nature strip, there are three Banksia integrifolia (Coastal Banksia’s), varying in height from between 4-7 metres, the most western tree being the largest of the three, all of which are covered by Council’s Tree Preservation Order and provide a positive contribution to the streetscape.

The two eastern most street trees will remain unaffected by the works contained in this application, with only minimal protection measures required to ensure their retention.

Despite the plans indicating retention of the western most street tree, construction of a vehicle crossing hard up against the eastern side of its trunk as shown is not considered feasible due to the damage that would be caused to the root system from excavation and compaction being carried out in such close proximity. Furthermore, the ability to provide a clear ‘line of sight’ of traffic approaching from the west when exiting the site is severely impeded by retention of this tree.
Therefore, conditions in this report require that the applicant cover the applicable removal and loss of amenity charges, as well as the cost in providing a replacement to the east of the proposed crossing upon completion of the works as a new street tree in this location would not affect any line of sight issues given the easterly movement of traffic, as well as to maintain the avenue planting which is prevalent in this section of Dudley Street.

Immediately to the northwest, hard up against the southwest corner of the existing dwelling, there is one Rhus Tree which will need to be removed as this species is classified as a noxious weed in the Randwick LGA.

Along the southern boundary of the site, near the southwest corner of the existing dwelling, there is one Corymbia citriodora (Lemon Scented Gum) of approximately 10-12 metres in height which appears in good condition and is covered by Council’s Tree Preservation Order, and although growing hard up against the existing retaining wall, does not appear to be causing any structural damage.

It would not be physically possible to retain this tree and proceed with construction of the vehicle crossing, pedestrian entry and basement as shown, with a redesign to accommodate its retention not justified given that an advanced replacement could achieve similar dimensions within a relatively short period of time. As such, permission is reluctantly granted for its removal subject to the provision of suitable replacement plantings in this immediate area.

The Grevillea cultivar of about 5 metres in height to the east of the tree described above is too small to be covered by Council’s Tree Preservation Order, and although consent is not technically required for its removal, it has been listed in this report for the clarification of the applicant.

Near the northwest corner of the existing dwelling at 120 Mount Street, there is one Olea europaea (Olive Tree) of about 6 metres in height which is struggling to emerge between both buildings. This tree shall be removed as part of site works as this species is deemed undesirable to the ability of its berries to be spread by birds and invade areas of bushland.

In the northwest corner of 120 Mount Street, there is one Cotoneaster and one Persea americanna (Avocado Tree) of approximately 10 metres in height. Neither tree is deemed significant, with consent granted for their removal.

In the northeast corner of 23 Dudley Street, close to the northwest corner of 118 Mount Street, there is one Howea fosteriana (Kentia Palm) of about 2 metres in height, and two large, mature and significant Eucalyptus bicostata (Southern Blue Gums) both of about 20 metres in height and 10 metres in width, as well as one Brachychiton acerifolius (Illawarra Flame Tree) of approximately 8 metres in height, all of which are covered by Council’s Tree Preservation Order and will need to be protected by the applicant during the course of the proposed works.

An existing brick retaining wall supports the difference in level between both sites (higher within the subject site) with the plans appearing to indicate that existing ground levels within the subject would be maintained, with the excavated
basement setback at such a distance that none of the trees would be affected.

The eastern half of the most eastern Gum encroaches into the subject site, with pruning likely in order to avoid conflict/damage with site machinery during demolition/construction. Consent has been granted for such work, providing it is undertaken by a qualified professional.

There are numerous other shrubs/small trees throughout the site which will need to be removed in order to accommodate the proposed works; however, they are too small to be covered by Council’s Tree Preservation Order, with conditions relating to them not required, and not included in this report.

In the southeast corner of the adjoining property to the west, 23 Dudley Street, close to the common boundary, there is one Melaleuca quinquinervia (Broad Leafed Paperbark) of approximately 6 metres in height which is covered by Council’s Tree Preservation Order. The existing ground level where the tree is growing is approximately 3 metres lower than within the subject site, with an existing retaining wall maintaining the difference in level between both sites.

This tree would remain unaffected by this application, namely construction of the vehicle access, with conditions not necessary and have not been included in this report.

Several amendments will need to be made to the submitted landscape plan in order to achieve a higher quality landscape treatment for the site than what has currently been shown. Appropriate conditions have been included in the report to address this matter.

Drainage Comments
On site stormwater detention is required for this development.

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

Flooding Comments
The Planning Officer is advised that the north-western corner of the subject development site is located adjacent to an entrapped low point (in the rear of 23 Dudley Street) and may be subject to stormwater inundation during major storm events.

The applicant was previously requested to submit a flood study which determines the 1 in 100 year flood level for the site. Further, the applicant was advised that recommendations should also be provided regarding what measures are required to ensure the development would not have an adverse affect on flooding in adjoining properties.
A flood study by Healey Castle and Associates dated March 2006 has now been submitted by the applicant. The flood study states that the adjoining site (23 Dudley Street) would be significantly affected by a 1 in 100 year storm event, with floodwater building up in the entrapped low point until such time as the flow can surcharge into downstream properties. However, with the subject site located several metres above the adjoining property, the extent of this flood inundation was found to be unaffected by the proposed development, with no adverse impact on downstream properties.

To minimise the possibility of localised floodwater entering the proposed development from the Dudley Street site frontage, the floor levels of all habitable and storage areas (excluding the basement carpark) are required to be a minimum of 300mm above the 1 in 100 year flood level. Noting the 1 in 100 year flood level along the Dudley Street site frontage was found to be RL 55.54 (AHD), the ground floor levels shall be at a minimum RL of 55.84 (AHD). The submitted Ground Floor Plan DA02 Rev F shows the ground floor level as being RL 56.40 (AHD), demonstrating compliance with this requirement.

In addition, the proposed internal driveway (and the proposed staircase from the basement carpark to the ground floor) must be designed with a high point at a minimum RL of 55.69 (AHD). The submitted Ground Floor Plan DA02 Rev F also demonstrates compliance with this requirement.

(It is noted that the Development Engineer has only received a hard copy of the completed flood study. As stated in the engineering issues paper dated 4 January 2006, the applicant is also required to submit all “DRAINS” and “HECRAS” data files on 3 1/2" MS-DOS formatted diskettes together with a suitable index to relate data files to the various run parameters.)

Groundwater Comments
A condition has been included in this report stating that should seepage water and/or groundwater be encountered within the depth of the basement carpark, the basement structure will need to be suitably tanked and waterproofed.

Traffic Comments
The Planning Officer should ensure the proposed parking provisions are adequate.

It was previously recommended that the Planning Officer consider requesting the applicant provide certification from a suitably qualified traffic engineer confirming that all aspects of the carpark are in compliance with AS2890.1:2004. Documentation has now been received from Transport and Traffic Planning Associates stating that the design of the basement carpark is satisfactory and generally compliant with the requirements specified in this Australian Standard.

It is noted however that concerns were also previously raised regarding the ability for a visitor vehicle to enter and exit the site in a forward direction should all parking spaces be occupied. The submitted documentation has only shown the swept path for a parked visitor vehicle to be able to enter and exit the site in a forward direction. Whilst it would appear that a visitor vehicle entering the full carpark would be required to undertake many manoeuvres to turn around and/or
reverse up the driveway; the Planning Officer may consider that the low frequency of such an occurrence would deem it an acceptable arrangement.

All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate showing compliance with this condition.

The driveway opening at the Dudley Street frontage must be minimum 5.50 metres wide and located at least 1.5 metres clear of the side property. It is noted that the submitted plans demonstrate compliance with this requirement.

The internal driveway must be a minimum of 5.50m wide (clear width) for the first 6 metres inside the property so as to allow entering & exiting vehicles to pass within the site. Should the driveway narrow after this point it is then to be designed with a minimum 1.5m x 1.5m splay to allow the passing to work.

**Service Authority Comments**

At the Health, Building and Planning Committee meeting on 8 November 2005, Council resolved that:

(a) the applicants of development applications be required to meet all costs associated with replacing overhead wires with underground cables in the vicinity of the development site when the cost of works on the site exceeds $2 million;

(b) the applicants of development applications be required to meet all costs associated with replacing overhead wires with Aerial Bundled Cables in the vicinity of the development site, when the cost of works on the site exceeds $1 million up to $2 million; and

(c) the Director, City Planning investigate the feasibility of funding the undergrounding of existing overhead cables for new development under the new options provided for in the Environmental Planning & Assessment Act (Developer Contributions) Act 2005.

Given that the cost of works is over $2 million, the applicant shall be required to meet the full cost for undergrounding cables in the vicinity of the development site. A condition regarding this matter has been included in this report.

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

Conditions suggested by the Development Engineer have been included in the Recommendation section of this report (see Conditions 66-127).

6.3 **Design Review Panel**

Council’s Design Review Panel considered the application at prelodgement stage and provided comment that the prelodgement scheme was consistent with SEPP 65. In accordance with the requirements of the SEPP, the application was re-referred to the
Panel as a Development Application. In response to this referral the Panel made the following comment:

1. **Relationship to the Context of the Proposal**

The proposal is considered to be well resolved in this regard. There is no overall change from the pre-DA and this is satisfactory. The corner site is well handled with living spaces and balconies facing Mount Street clearly becoming the main address, which is consistent with neighbours and is a sensible approach in this context. There is a mixed range of periods in the area and this design will sit well as an example of current style and considerations.

2. **The Scale of the Proposal**

The scale of the overall proposal is similar to the original scheme, however the height is greater by approximately 1m to accommodate the recommended increased floor to ceiling heights contained in the RFDC. This is considered satisfactory in urban design terms. The corner site benefits from a slightly bigger scale. It is commendable that this has come about as a result of ceiling heights that provide better amenity when compared to neighbouring properties from different periods.

3. **The Built Form of the Proposal**

Satisfactory. The extent of the western breezeway screen element has been reduced at the northwest corner to reduce the impact of height non-compliance where the existing dip in the site exacerbates the height non-compliance. The built form is complex and interesting and responds to devices that improve comfort/amenity and are thus supported by ‘The Panel”

4. **The Proposed Density**

The density is considered to be acceptable. Although proposal still exceeds overall FSR controls. The FSR has been reduced from 1.28:1 to 1.17:1.

5. **Resource and Energy Use and Water Efficiency**

The scheme is well conceived in terms of environmental performance. The top floor bathrooms have external windows and the internal laundry proposes a ventilated skylight.

On the lower levels the end apartments have external windows for the bathrooms.

6. **The Proposed Landscape**

Generally satisfactory. Street trees are proposed to the Mount Street Council controlled verge. An extra street or two tree on Dudley St is recommended. The applicant should seek information from council as to the appropriate species.

An increase in deep soil planting in the front setback of the site is desirable and possible with some reorganization of the carparking. Potentially tandem spaces will provide for this outcome.
7. **The Amenity of the Proposal for its Users**

There is a high level of amenity provided by this scheme. The design quality is of a high quality and this is closely linked to the attention to issues of amenity. The entry sequence is shaded breezy and interesting. Subtle soft light will filter through the entry area. Rooms are well proportioned with generous sized east facing decks that address them well.

The applicant has implemented the following recommendations of the Committee:
- Cavity walls are now provided between units to increase acoustic attenuation.
- 50% translucent ceramic fritted toughened glass has been provided to the balustrades on the first and second level balconies for privacy.
- Translucent glazing has been provided to 75% of the ground floor level glazed louvres on the Mount Street elevations for privacy considerations.

An outdoor drying area has been provided and additional screen planting provided.

It is recommended that there is more light and ventilation provided from windows from the western aspect to provide adequate amenity to the kitchens.

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

Satisfactory. There is a good public relationship between the balconies and the street which will provide a sense of safety and security.

9. **Social issues**

Satisfactory.

10. **The Aesthetics of the Proposal**

The proposal maintains its well designed characteristics as commended at the pre-DA. The reduction in the breezeway screen assists in the overall design concept.

It is an attractive building and one of the better designs The Panel has seen in 2005.

**SUMMARY AND RECOMMENDATIONS**

The Panel considers that his is well designed building that meets the SEPP65 requirements. It is considered that the application should be approved, having regard to the additional comments on the design outlined above.

A drying area has now been indicated on the plans, consistent with the advice of the Design Review Panel. Kitchen windows have not been provided in the western elevation as per the recommendation of the Panel, however the BASIX certificate indicates the kitchens can be mechanically ventilated and artificially lit while still achieving the energy efficiency requirements of SEPP: BASIX (which overrides SEPP 65). The proposal is satisfactory with regard to SEPP 65.
7. **MASTER PLANNING REQUIREMENTS**

As the site is less than 4,000m² in area there is no requirement for a master plan under clause 40A of RLEP98.

8. **RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS**

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

- Randwick Local Environmental Plan 1998
- State Environmental Planning Policy 1 – Development Standards (SEPP 1)
- Draft SEPP 1 (Application of Development Standards)
- State Environmental Planning Policy 10 – Retention of Low Cost Rental Accommodation
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP65)
- SEPP: BASIX
- DCP - Parking
- Section 94 Contributions Plan
- Rainwater Tanks Policy

(a) **Randwick Local Environmental Plan 1998**

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

<table>
<thead>
<tr>
<th>Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clause No.</strong></td>
</tr>
<tr>
<td>31 (2) – Landscape Area</td>
</tr>
<tr>
<td>31 (3) – Landscaped Area over basements (maximum)</td>
</tr>
<tr>
<td>32 (1) – FSR</td>
</tr>
<tr>
<td>33 (1) – Building Height</td>
</tr>
<tr>
<td>33 (3) – External Wall Height</td>
</tr>
</tbody>
</table>

Note: 1
Partial non-compliance

SEPP 1 objections have been provided in support of the non-compliances with the statutory standards contained within RLEP98 have been discussed in detail in Sections 9.1, 9.2 and 9.7 of this report.

The relevant objectives of the 2(C) zone are as follows:

- **(a)** to allow a variety of housing types within residential areas, 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
- **(e)** to enable a mix of housing types to encourage housing affordability.

The development will increase the mix of dwellings provided on the site at present and therefore will contribute to the variety of housing types and the housing choice in the locality. The site currently provides 8 x 2 bedroom dwellings. The proposal will provide 6 x 2 bedroom dwellings and incorporate a 3 bedroom and 3 x 1 bedroom dwellings into the mix. The three one bedroom dwellings will provide for greater housing affordability and the three bedroom dwelling will improve housing choice by providing a larger unit which may provide greater housing affordability and choice for a range of groups including families. The proposal is considered to meet objectives (a) and (e), above.

The development is not considered to significantly compromise the amenity of the surrounding area and where appropriate conditions of consent have been recommended to mitigate or minimise impacts (see discussion under Section 9, below). The proposal is satisfactory with regard to objective (c) of the zone.

The proposal is satisfactory with regard to the objectives of the 2(C) zone.

**State Environmental Planning Policy No. 1**

An objection under SEPP 1 has been lodged to support the non-compliances with Council’s 0.9:1 Floor Space Ratio standard, 12 metre overall and 10 metre wall height standards and 50% landscaped area standard as set by clauses 32(1), 33(2), 33(4) and 31(2) of the RLEP 1998. These objections are discussed in detail under sections 9.1, 9.2 and 9.7 of this report.

**Draft SEPP (Application of Development Standards)**

This Draft SEPP seeks to replace the provisions of SEPP 1 and has been publicly exhibited (concluding on 18 June 2004). The new SEPP will introduce additional objectives (such as requiring non-compliances to result in better environmental planning outcomes than a complying development) when assessing whether flexibility of a planning standard is acceptable or not.

Legal advice was provided by Deacons Solicitors on 27 October 2004 with respect to the weight that should be given the Draft SEPP. Deacons have advised that contact made with the Department of Planning (then Department of Infrastructure, Planning and Natural Resources) was satisfactory with regard to the objectives of the 2(C) zone.

Legal advice was provided by Deacons Solicitors on 27 October 2004 with respect to the weight that should be given the Draft SEPP. Deacons have advised that contact made with the Department of Planning (then Department of Infrastructure, Planning and Natural Resources) was satisfactory with regard to the objectives of the 2(C) zone.
Resources) indicates that the Draft SEPP 1 will be implemented over a three and five year period subject to re-exhibition. It is noted in Deacons advice that the Land and Environment Court adheres to the principle of “imminence and certainty” with respect to the weight given to a draft instrument. Deacons conclude that the draft SEPP 1 should not be given any significant weight, but should be considered as part of Council’s general Section 79C consideration.

The additional objectives proposed under Draft SEPP 1 include whether the proposal will result in a better environmental outcome than a complying development, design quality and whether the development meets the objectives of the standards. The proposed development is considered appropriate and consistent with the draft SEPP for development standards in respect to the non-compliance with the floor space standards. The scale of development is consistent with the desired future character of the 2C zone and development that has already occurred consistent with the LEP standards.

The proposal is considered to result in the same or a better environmental outcome than a complying development and is considered to be of high design quality. The development is satisfactory with regard to Draft SEPP 1. A thorough assessment of the proposal against the existing provisions of SEPP No. 1 and against Council’s statutory controls and objectives has been made in Sections 9.1, 9.2 and 9.7 of this report.

(d) State Environmental Planning Policy No. 10

Clause 7(2) of the SEPP requires Council consent for strata subdivision and alterations and additions to residential flat buildings classed as “low-rental residential buildings” under clause 6 of the SEPP. Under the SEPP demolition of low-rental residential buildings does not require the concurrence of the Department of Planning. It is unclear if the existing building is classed as a “low-rental residential building”, however as the existing building is proposed for demolition, details of rental levels and further consideration of the SEPP is not required.

(e) SEPP 55 - Remediation of Land

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

(f) SEPP 65 – Design Quality of Residential Flat Buildings

The development is subject to the provisions of State Environmental Planning Policy No. 65 (SEPP 65) – Design Quality of Residential Flat Buildings. An assessment of the proposal in accordance with the ten design quality principles has been undertaken by Council’s Design Review Panel. As a result of reviewing the development at its December 2005 meeting, the Panel were satisfied that the proposal met the standards of SEPP 65 and was of better design than many applications considered in 2005. Comments
made by the Panel are reproduced in section 6.3 of this report. The proposal is considered satisfactory with regard to SEPP 65.

(g) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP: BASIX)

SEPP: BASIX requirements came into force for all new multi unit housing developments where development applications were lodged on or after 1 October 2005. A BASIX assessment is a mandatory component of the development approval process under the Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The proposal is for a new multi unit housing development and the applicant has provided a BASIX certificate in accordance with the requirements of the SEPP. The provision of a certificate indicates that compliance with the current targets set for energy and water conservation have been met by the development. Some of the minor details included in the certificate are not annotated on the plans (although they are indicated). To satisfy the requirements of the SEPP Condition 5 requires plans indicating compliance be provided at CC stage.

The development is satisfactory with regard to BASIX.

8.1 Policy Controls

a. Multi Unit Housing Development Control Plan

The DCP for Multi-Unit Housing states that a proposal is deemed to satisfy the Objectives and Performance requirements of the DCP if it complies with the corresponding Preferred Solutions. Therefore, the tables below assess the proposal against the Preferred Solutions, and where non-compliance results, assessment is made against the relevant Objectives and Performance Requirements.

<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
<th>(Whether proposal meets Performance Requirements or Preferred Solutions.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Planning</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P1 Development applications accompanied by Site Analysis Plan.</td>
<td></td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P2 Development sites have appropriate areas/dimensions to allow for satisfactory siting of buildings.</td>
<td>S2 Sites are of regular shape with frontages of at least 20m.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P3 Development on corner sites responds to both street frontages.</td>
<td></td>
<td>Complies</td>
<td></td>
</tr>
</tbody>
</table>

Complies

Mount St: 29.9m
Dudley St: 24m

Complies

Entry provided from both Mount and Dudley Streets
<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Height</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P1  Heights of walls, their location and orientation do not</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>cause substantial adverse impacts on streetscape or adjoining</td>
<td></td>
<td></td>
</tr>
<tr>
<td>properties.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P2  Variations in massing and height create visual interest,</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>distribute the bulk of the building and minimise amenity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>impacts on the streetscape and adjoining properties.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Building Setbacks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P1  Front boundary setbacks</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>The front setback consistent with streetscape /adjoining</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dwelling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P2  Side boundary setbacks</td>
<td>S2  Zone 2C</td>
<td></td>
</tr>
<tr>
<td>Side setbacks to ensure:</td>
<td>Minimum average setback 5 metres.</td>
<td></td>
</tr>
<tr>
<td>▪ Solar access maintained and overshadowing minimised.</td>
<td>No part closer than 3.5 metres.</td>
<td></td>
</tr>
<tr>
<td>▪ Privacy between adjoining dwellings and open spaces.</td>
<td>Maximum length of wall without articulation is 10</td>
<td></td>
</tr>
<tr>
<td>▪ Landscaping and private open space provided.</td>
<td>Minimum length of any step is 3 metres.</td>
<td></td>
</tr>
<tr>
<td>▪ Streetscape amenity is maintained.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>North</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does not comply Ground – Level 2: 3.5m-3.8m</td>
<td>Complies Level 3: 7.5m</td>
<td></td>
</tr>
<tr>
<td>South (Dudley Street)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does not comply Ground: 3.2m; Lvl 1 &amp; 2: 2.75-3.2m</td>
<td>Complies Level 3: 6.8m</td>
<td></td>
</tr>
<tr>
<td>Complies: North – 3.5m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does not comply: South – 2.75m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.7-10m wall length. Satisfactory articulation achieved via</td>
<td></td>
<td></td>
</tr>
<tr>
<td>materials, balconies and wall openings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Performance Requirement</td>
<td>PREFERRED SOLUTION</td>
<td>COMPLIANCE</td>
</tr>
<tr>
<td>--------------------------</td>
<td>--------------------</td>
<td>------------</td>
</tr>
<tr>
<td><strong>P3  Rear Boundary Setbacks</strong></td>
<td>S3  Zone 2C</td>
<td><strong>West</strong></td>
</tr>
<tr>
<td>Ensure that:</td>
<td>Minimum average setback 8 metres.</td>
<td>Does not comply 5m-8.1m. Existing rear setback maintained.</td>
</tr>
<tr>
<td>▪ solar access and overshadowing are minimised.</td>
<td>No part closer than 6 metres.</td>
<td>Does not comply 5m-8.1m. Existing rear setback maintained.</td>
</tr>
<tr>
<td>▪ Privacy between neighbouring dwellings and their open spaces provided.</td>
<td>Maximum length of wall without articulation 10 metres.</td>
<td>Does not comply</td>
</tr>
<tr>
<td>▪ Landscaping, communal recreation facilities and outdoor clothes drying spaces provided.</td>
<td></td>
<td>Does not comply with minimum physical articulation requirement of DCP, however aluminium louvre screen considered to provide adequate façade articulation.</td>
</tr>
<tr>
<td>▪ Building built across site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>P4  General</strong></td>
<td>S4  No device may encroach more than 25% of the Preferred Solution.</td>
<td>Complies</td>
</tr>
<tr>
<td>Eaves, window hoods and other sun-shading or weather protection pose no significant adverse impact on adjoining properties.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Density

<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>P1  Building bulk compatible with surrounding built forms and minimises impact on nearby buildings, open spaces and the streetscape.</strong></td>
<td></td>
<td>Complies. Immediate context is comprised of large residential flat buildings, which predate Council’s current controls. Additional impacts are minimised by the general retention of the existing building envelope on the site.</td>
</tr>
</tbody>
</table>

### Fences

<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>P1  Fences to be/have:</strong></td>
<td>S1  Solid front fences no higher than 1.2 metres. May increase to 1.8 metres when 50 % transparent.</td>
<td>Complies - Mount Street</td>
</tr>
<tr>
<td>▪ consistent with streetscape;</td>
<td></td>
<td>Hedging used instead of fencing to a height of 1.35m</td>
</tr>
<tr>
<td>▪ Entrances highlighted; and</td>
<td></td>
<td>Does not Comply - Dudley Street</td>
</tr>
<tr>
<td>▪ Planting used to soften and provide privacy.</td>
<td></td>
<td>Hedging and fencing used 1.5-2.0 metres above street level. See discussion below</td>
</tr>
<tr>
<td>Performance Requirement</td>
<td>PREFERRED SOLUTION</td>
<td>COMPLIANCE</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------------</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>(Whether proposal meets Performance Requirements or Preferred Solutions.)</td>
</tr>
<tr>
<td><strong>Landscaping and Private Open Space</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P1 Landscaped Areas</td>
<td>S1 Minimum for landscaped area 2 metres.</td>
<td><strong>Complies</strong> Adequate area provided and landscape design ensures high amenity.</td>
</tr>
<tr>
<td>Areas are sufficient size allow recreational activities and substantial vegetation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P2 Areas around multi-unit buildings are communal open space and not divided up for allocation to individual units.</td>
<td></td>
<td><strong>Does not comply</strong> Individual front gardens provided to ground floor dwellings. Some communal areas also provided. Allocation considered appropriate, see discussion below.</td>
</tr>
<tr>
<td>P3 Private Open Space</td>
<td></td>
<td><strong>Complies</strong> Balconies and courtyards provided to all units</td>
</tr>
<tr>
<td>Provides privacy for its users, is readily accessible, and provides opportunities for outdoor recreation / living.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P4 Is located in front of the building only where setback and fence design sympathetic.</td>
<td></td>
<td><strong>Complies</strong> Proposed hedging and location of main entry will assist in providing privacy to ground floor private open space areas.</td>
</tr>
<tr>
<td>P6 Flats and apartments Each dwelling has direct access to an area of private open space.</td>
<td>S6 Minimum of 8 m² and minimum dimension of 2 metres.</td>
<td><strong>Complies</strong> Minimum areas and dimensions provided to all balconies and courtyards</td>
</tr>
<tr>
<td><strong>Privacy</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>P1</strong> Visual Privacy</td>
<td>S1 Offset, angle or screen windows with less than 10m separation. Sill level of 1.6 metres above floor level.</td>
<td><strong>Complies</strong> Windows are located to street frontages wherever possible. Rear breezeway is heavily screened to minimise overlooking. Windows to northern side boundary are limited to highlight windows and balconies. Some impact from balconies with reduced (6.5m) separation, see discussion below.</td>
</tr>
<tr>
<td><strong>P2</strong> Private open space design and location ensure privacy.</td>
<td></td>
<td><strong>Complies</strong></td>
</tr>
<tr>
<td><strong>P3</strong> Acoustic Privacy</td>
<td>S4 Wall / floor insulation &amp; sound consistent with Building Code of Aust.</td>
<td><strong>Complies</strong> Layout minimises potential for noise between adjacent dwellings</td>
</tr>
<tr>
<td><strong>P4</strong> Building construction transmission of noise.</td>
<td></td>
<td><strong>Conditioned to comply</strong> (see Condition 32).</td>
</tr>
</tbody>
</table>

**View Sharing**

<p>| <strong>P1</strong> Design and location of buildings considers surroundings for assessing impact on views. | | <strong>Complies</strong> Minimal impact on outlook of adjoining properties due to existing building bulk on the site. |
| <strong>P2</strong> Development minimises effects on views and shows how view loss is minimised. | | <strong>Complies</strong> Significant views are not available from surrounding properties due to the topography, orientation and existing development. |</p>
<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>P3 Buildings are aligned to maximise view corridors between buildings.</td>
<td>Complies. Existing street alignment maintained. Corridor between existing buildings which will be removed as a result of redevelopment does not provide significant outlook opportunities.</td>
<td></td>
</tr>
<tr>
<td>Solar Access and Energy Efficiency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P1 Solar Access to Neighbouring Properties Design, orientation, siting and landscaping minimises loss of solar access.</td>
<td>CompliesShadows cast largely on roadway at midwinter.</td>
<td></td>
</tr>
<tr>
<td>P1.1 Solar access to existing solar collectors maintained between 9am and 3pm.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P1.2 Living areas of neighbours’ dwellings receive 3 hours of sunlight over part of their surface throughout the year. If less currently available, the amount is not reduced.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P1.3 Neighbour’s principal private outdoor open space receives 3 hours of sunlight over at least 50% of its area throughout the year. If less currently available, the amount is not reduced.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P4 Building Layout, Design and Construction Protect from prevailing strong winds and adverse weather.</td>
<td>S4 75% of dwellings achieve 3.5star Nat HERS rating or equivalent. No dwelling achieves less than 3 stars. The NatHERS rating for each dwelling (on a typical unit basis) is provided with the application.</td>
<td>BASIX targets for thermal comfort override this control and have been passed/ exceeded by the proposal. Complies.</td>
</tr>
</tbody>
</table>
### Performance Requirement  |  PREFERRED SOLUTION  |  COMPLIANCE  
---|---|---
### Safety and Security  

| Performance Requirement | PREFERRED SOLUTION | COMPLIANCE  
|---|---|---
P1  Design allows surveillance. |  | Complies  
P2  Approaches and entries are visible. |  | Complies  
P3  High walls and structures avoided. |  | Complies  
P4  Resident car parking has security grilles or doors. |  | Complies  
P5  Visitor parking spaces clearly identifiable. |  | Conditioned to comply  
P6  Adequate lighting for personal safety and security provided. |  | Conditioned to comply  
P7  Adequate lighting is provided in common areas. |  | Conditioned to comply  
P8  External lighting does create a nuisance. |  | Conditioned to comply  

### Parking  

| Performance Requirement | PREFERRED SOLUTION | COMPLIANCE  
|---|---|---
Required On-site Parking  
1 bedroom dwelling  
1 space per dwelling | 3 x 1: 3 spaces | Complies  
2 bedroom dwelling  
1.2 spaces per dwelling | 6 x 2: 7.2 spaces | 7 spaces  
3 or more bedroom  
1.5 spaces per dwelling | 1 x 3: 1.5 spaces | 2 spaces  
Visitor parking is 1 space per 4 dwellings. | 10/4: 2.5 spaces | 3 spaces  
P1  Garages and parking structures do not dominate the street frontage. |  | Complies  

<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>P2 Parking spaces for people with a disability provided as required (refer to dwelling number requirements in P1 and P2 Barrier Free Access.)</td>
<td>Not Applicable</td>
<td></td>
</tr>
<tr>
<td>P3 Secure storage for bicycles is provided.</td>
<td>Complies</td>
<td>5 bicycle spaces provided in basement</td>
</tr>
</tbody>
</table>

**Driveways and Manoeuvring Areas**

<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>P1 Areas of driveways and manoeuvring are minimised.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P2 Vehicles enter/ leave in a forward direction.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P3 Driveways and access roads avoid a ‘gun barrel’ effect.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P4 Space between boundaries and driveways, access ways and parking spaces enables landscaping and planting.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P5 Materials and finishes are consistent.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>P6 Driveway gradients safe.</td>
<td>Complies</td>
<td>1:12, 1:20</td>
</tr>
</tbody>
</table>

**Storage**
<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(Whether proposal meets Performance Requirements or Preferred Solutions.)</td>
</tr>
<tr>
<td>P1 Accessible and separate storage for each dwelling.</td>
<td>S1 10m² of storage space is provided for each dwelling. Minimum clearance height of 2.1m. At least 50% of storage space is within dwelling and is readily accessible from either the hallway or main living area. Storage facilities may be in basement areas, or attached to garages.</td>
<td>Complies</td>
</tr>
</tbody>
</table>

**Barrier-Free Access**

<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(See condition 32)</td>
</tr>
<tr>
<td>P1 Design must provide access for people with special access needs as required (foyer parking open space).</td>
<td>S1 Publicly accessible areas comply with the Building Code of Australia for access and mobility.</td>
<td>Conditioned to comply</td>
</tr>
<tr>
<td>P2 Dwelling requirements:</td>
<td></td>
<td>Not Applicable</td>
</tr>
<tr>
<td>0 – 14 dwellings</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>15 – 29 dwellings</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>30 – 44 dwellings</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>45 – 60 dwellings</td>
<td>3 so on…</td>
<td></td>
</tr>
<tr>
<td>The requirements of AS1428.1 and AS 4299 are to be considered.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P3 Dwellings for people with a disability have corresponding parking space.</td>
<td></td>
<td>Not Applicable</td>
</tr>
<tr>
<td>P4 Passenger lifts provide access for people with a disability to common and parking areas.</td>
<td></td>
<td>Complies</td>
</tr>
</tbody>
</table>

**Utilities/Site Facilities**

<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(see condition 14)</td>
</tr>
<tr>
<td>P1, P3-P7 Facilities to be provided in accordance with authority requirements</td>
<td></td>
<td>Conditioned to comply</td>
</tr>
<tr>
<td>P2 Provisions for a single common TV and radio reception device.</td>
<td></td>
<td>Conditioned to comply</td>
</tr>
</tbody>
</table>
**Performance Requirement** | **PREFERRED SOLUTION** | **COMPLIANCE**
---|---|---
P7 Internal laundry to each dwelling, communal clothes drying made available and screened from the street. |  | Complies

**Waste Minimisation and Management**

<table>
<thead>
<tr>
<th>Performance Requirement</th>
<th>PREFERRED SOLUTION</th>
<th>COMPLIANCE</th>
</tr>
</thead>
</table>
P2 Waste storage to be provided in a centralised position that has easy access for moving bins to the street for collection. |  | Complies |
P3 The location and design of waste facilities does not visually detract from the development or the streetscape. | S3 Waste facilities not to be located between the front building alignment and the road. | Complies |

b. **DCP - Parking**

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
<th>Provided</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car Parking</td>
<td>1.5 spaces required for each three bedroom dwelling (1 x 1.5 = 2 spaces)</td>
<td>2 spaces</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>1.2 spaces required for each two bedroom dwelling (6 x 1.2 = 7.2 spaces)</td>
<td>7.0 spaces</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>1.0 spaces required for each one bedroom dwelling (3 x 1.0 = 3 spaces)</td>
<td>3 spaces</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>1 space/4 dwgs or part thereof for visitors (3 spaces required)</td>
<td>3 spaces</td>
<td>Yes</td>
</tr>
<tr>
<td>Total</td>
<td>14.2 spaces</td>
<td>15 spaces</td>
<td>Yes</td>
</tr>
<tr>
<td>Accessible Parking</td>
<td>1 per accessible unit</td>
<td>0 spaces</td>
<td>N/A</td>
</tr>
</tbody>
</table>
As indicated above, the proposal complies with the number of resident, visitor and bicycle spaces required for a development of this size. Discussion of traffic and parking impacts of the proposal is included in Section 9.12 of this report.

8.2 Council Policies

a) Section 94 Contributions Plan, 1999

The development has been assessed against Council’s Section 94 Contributions Plan as it proposes an additional 2 dwellings on the site. As a result of this assessment, a condition of consent has been proposed requiring the payment of monetary contributions relating to open space, community facilities and administration charges totalling $4,365.05. This amount must be paid prior to the issuing of any Construction Certificate (see Condition 23).

b) Rainwater Tanks Policy, 2003

BASIX overrides all other environmental performance instruments and policies. Council’s Rainwater Tanks Policy requires all new multi unit housing developments to install a rainwater tank to provide for irrigation of landscaped areas and internal non-potable uses such as clothes washing and toilet flushing. The BASIX certificate for this development indicates that a 3,000L tank will be installed on the site to be used for car washing and irrigation of landscaped areas. This covers the requirements under BASIX and Council’s Rainwater Tanks Policy.

The proposal is satisfactory with regard to Council’s Rainwater Tanks Policy.

9. ENVIRONMENTAL ASSESSMENT

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

9.1 Height

The development has an overall height ranging between 9.8 and 14.3 metres resulting in a non-compliance with the statutory standard of 12 metres. The maximum external wall height of the development also varies due to the sloping topography and articulation of the building and ranges from 9.8 to 14.0 metres.
The applicant has submitted an objection under State Environmental Planning Policy No.1 - Development Standards, and has argued that strict compliance with clauses 33(2) (Overall Height) and clause 33(4) (External Wall Height) of Randwick LEP 1998 is unreasonable and unnecessary in the circumstances for the following reasons:

Clause 33 of Randwick LEP 1998 states as a note to the Clause that its purpose is:-

“Purpose: 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.”

A more detailed analysis of the height of the building is provided in the following table (which is also contained within the Statement of Environmental Effects). These measurements are taken from the current ground levels on the site. The height in relation to the height above street level and are included in brackets in the table below.

<table>
<thead>
<tr>
<th>Development Standard</th>
<th>East Elevation (Mount St)</th>
<th>South Elevation (Dudley St)</th>
<th>North Elevation</th>
<th>West Elevation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum height – 12m</td>
<td>12.5 – 13.2m (12.0 – 12.2m)</td>
<td>13.2 – 13.6m (11.9 – 12.2m)</td>
<td>12.8 – 14.1m</td>
<td>13.6 – 14.3m</td>
</tr>
<tr>
<td>Maximum external wall height – 10m</td>
<td>12.5 – 13.2m</td>
<td>13.2 – 13.6m</td>
<td>12.8 – 14.1m</td>
<td>13.5 – 14.3m</td>
</tr>
</tbody>
</table>

Potential amenity impacts relating to the height of a building such as overshadowing, view loss and privacy have been discussed at length in the justification to the departure from the floor space ratio development standard. These same arguments apply in the instance of the proposed departure from these height controls. Compliance with the height development standards is considered to be unreasonable and unnecessary for the same reasons.

Further analysis of height in relation to these controls is discussed in relation to the operation of the dual height controls, attributes of the site and impacts upon the surrounding area in terms of streetscape.

**Dual Height Controls**

It is noted in Clause 33(6) of the Randwick LEP 1998 that

“(6) For the purposes of this clause, chimneys, vents and other service installations may exceed the specified height limits, but only where the Council is satisfied that it will not adversely affect the amenity of adjoining or nearby land.”

It is assumed that if there is flexibility in the inclusion or exclusion of certain building elements from the height controls then the building height control would
account for a pitched roof. This makes sense of the distinction between the building height and wall height controls. However, the proposed apartment building does not contain a pitched roof and therefore the wall height control also applies to the height contained within Level 3.

However, if a pitched roof form of 30 degrees was applied from the 10m wall height control, then part of the volume of Level 3 would correspond with the proposed roof envelope, albeit still exceeding the building height control. Level 3 is provided in lieu of a conventional pitched roof form. The stepped form of the Level 3 is penalised as the walls associated with Level 3 are included in the wall height measurement even though occurring within the potential volume of a roof. A conventional pitched roof occupying this same volume would not by comparison count as wall height.

Level 3 is significantly recessed to reduce the apparent height and scale of the building and provide an architecturally more aesthetic finish to the roof of the building than that of a conventional pitched roof.

The operation of the wall height and building height controls do not respond to more modern practices of roof design. Compliance with the development standard and the strict application of the wall height control is considered unreasonable in this circumstance.

**Site Attributes**

The variation in these height departures across the site is due to the fall in the level of the land between the eastern (Mount Street) frontage and the western boundary. The site has a relatively narrow depth from Mount Street of 24.74m. The available site width for the siting of a building is further reduced by the setback requirements and the location of the driveway along the western boundary which being the lowest point for vehicular access is the best location for the driveway. These elements limit the site depth available for the siting of a building and therefore the depth of a building. In this instance the proposed apartment building has a depth of 13.5m including the balconies and 11.2m for the depth of the each dwelling (from Mount Street). As can be seen from the floor plans, the living/dining/kitchen is designed as an integral room. This depth is too narrow to effectively provide a step without compromising on the function of the rooms. The site depth is therefore not sufficient to provide a step in the apartment building. Therefore the height of a building, including a height that complied along the Mount Street elevation, would not comply with the height controls towards the rear.

Alternatively, a height that complied along the western boundary would result in a building that contained only two levels with reduced floor to ceiling heights, compromising on the amenity of the dwellings and not achieve the internal ceiling heights recommended in the Residential Flat Design Code. Compliance with the height controls is therefore considered unreasonable and unnecessary given the narrow depth of the site, the slope of the site and the confined building envelope limiting design options to achieve compliance with this height control.

**Streetscape**
As described in Section 2 of the Statement of Environmental Effects, the surrounding area has a mixed residential character. Building heights vary considerably within Mount Street and Dudley Street in the Residential 2C zone where multi-unit housing is permissible. This has resulted in some marked contrasts in the scale of buildings which characterizes the area, some of which are illustrated below.

A building that does not match the heights of adjacent development cannot be regarded as being inconsistent with the character of the area. It is this diverse character and heights of buildings within the immediate area that offers flexibility in the height of the proposed building.

However, the apartment building is designed to relate to the heights of adjoining and surrounding residential development. Level 3 has been stepped back from the main wall of the building by 3.5m to reduce the apparent height of the building. Drawing DA06 demonstrates how the main wall which approximately corresponds to the 10m wall height control provides consistency with the residential flat building at 116 Mount Street. Likewise this line of the building continues along the southern elevation. This height approximates the ridge height of 23 Dudley Street. It also represents approximately 1 level above the eave height of the building at 23 Dudley Street which is a level difference commonly found within the immediate area as illustrated in Figures 1 to 3 below:

Figure 1- 117 Mount Street, diagonally north of the subject site
Figure 2 – 125 and 127 Mount Street, opposite the subject site

Figure 3 -116 Mount Street immediately to the north of the subject site

The louvered screen on the western elevation continues the height towards the rear. However, this a light weight structure and does not exhibit the same massing as a wall of a building. Its light weight appearance and open structure will provide filtered views to the wall behind reducing the effects of its height.

The zoning changes on the opposite side of Dudley Street to a Residential 2A zone. With this zone change is a corresponding drop in the density and height controls. It is considered reasonable to expect a change in scale and character between a zone that permits larger multi-unit housing than one that does not. The width of Dudley Street (estimated at approximately 20m) provides a large degree of separation and a transition zone to offset different building heights and scales arising out the different zones. In addition, the heights permissible within the Residential 2A zone are 9.5m building height and 7m wall height. Thus, the potential heights in the Residential 2A zone and resultant scale would provide an acceptable scale
relationship with the heights of the proposal. The height and scale of the proposed building is considered to be acceptable in the context of the development south of the Dudley Street.

Compliance with the height controls is therefore considered unreasonable and unnecessary on the grounds that the height of the proposed building will fit with the diverse range of building heights characterising the area and streetscapes.

**Conclusion**

The departure from the wall height control occurs, in part, due to the manner in which the dual height controls apply to a building and the wall height control should not be strictly applied to Level 3 which is provided in lieu of a traditional pitched roof form. The site depth constrains the opportunity to create a stepped building and therefore respond to the slope of the land accounting for the height departure increasing towards the rear.

Despite the departures, the height of the building does not have any adverse impacts on the amenity of the surrounding area in terms of privacy, shadowing, views, bulk or streetscape impacts. The proposed building height and wall height therefore achieves the purpose of the development standard and it is therefore considered unreasonable and unnecessary to comply with the development standards.

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

The proposal exceeds the overall height control by up to 2.3 metres and the wall height control by up to 4.0 metres. As stated in the applicant’s submission, the height of the proposal will not contribute to impacts on the views, privacy or solar access to surrounding properties, nor to an excessive bulk or scale when viewed in the context of existing development in the surrounding area. Due to the setback of the top floor level, the eastern (Mount Street) elevation complies with the wall and overall height standards, minimising the visual impact to the street. The northern and southern elevations also benefit from the setback of the top floor and only exhibit minor non-compliance with the wall height control at the face of the building. These non-compliances are generated by the fall of the land from Mount Street towards the rear (west).

The main area of non-compliance with the wall height standard occurs to the western elevation where the ‘breezeway’ screen structure exceeds the standard by up to 4.0m. The impacts of the non-compliance have been minimised by careful design of the building footprint and northern boundary setback which improves the solar access to the adjoining building to the west (23 Dudley Street) at 9am midwinter. The screen on the western side provides sun shading, privacy screening and visual relief as light and shade penetrating the screen will enliven the elevation and reduce visual bulk. This element will not be highly visible from the street due to the proximity of 23 Dudley Street to the common boundary, the orientation of the wall (perpendicular to the street) and existing vegetation. The difference in ground levels between 23 Dudley Street and the subject site make differences in height difficult to distinguish and the proposal has an overall height which
will be consistent with the ridge height of 23 Dudley Street in the streetscape, as demonstrated by the submitted three-dimensional model of the proposal.

The corner location of the building results in additional shadow affecting the Dudley and Mount Street roadways and not adjoining properties. A pitched roof with attic rooms could be imposed on the design to reduce the area of non-compliance with the wall height standards. This solution would significantly change the design of the proposal and its strong three-dimensional form. The design of the proposal has been commended by Council’s Design Review Panel and the high quality of the development is considered to support the adequacy of the proposal with regard to Council’s objectives for development despite non-compliance with Council’s statutory standards. A pitched roof form is likely to have similar impacts on surrounding properties, as the top floor which generates the height non-compliance is well setback on three sides and would generally ‘fit’ inside a pitched roof. The western elevation protrudes outside the envelope created by a pitched roof form, however as discussed above, there are no significant impacts from this element in terms of amenity and streetscape.

The development meets the objective of the external wall height and overall height standards, being to set upper limits for the height of buildings which regard to the amenity of surrounding properties. As such it is unnecessary and unreasonable to enforce the height standard in this case. It is considered that SEPP 1 objections in relation to these standards are well founded and should be supported.

9.2 Density

The FSR of the proposal is 1.17:1 (869m$^2$) and exceeds that permissible under clause 32(2) of the RLEP 98 for a development on the site, being 0.9:1 (666.72m$^2$) by 202.8m$^2$. Approximately 21m$^2$ of the floor area is contained within the basement level and does not contribute to the overall bulk of the development. Removing the basement area from the calculations results in an FSR of 1.14:1. The applicant submitted an objection under State Environmental Planning Policy No.1 - Development Standards in relation to non-compliance of the scheme and has argued that strict compliance with clause 32 of Randwick LEP 1998 is unreasonable and unnecessary in the circumstances for the following reasons:

The variation to the floor space ratio development standard represents a departure of 200m$^2$ of gross floor area. This figure includes storage areas and the waste storage room located in the basement. If these areas are excluded from the gross floor area the departure is 1.15:1 or 185m$^2$ of gross floor area.

Clause 32 of Randwick LEP 1998 states as a note to the Clause that its purpose is:-

“Purpose: To establish reasonable upper limits for development in residential, business, industrial and special uses 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.”

The proposal is considered to achieve this stated purpose by carefully designing the building to minimise or not increase impacts to adjoining or nearby development. The potential impacts that could arise as a consequence of the floor space ratio
departure are overshadowing, privacy, views, bulk and streetscape and traffic which are addressed below.

**Overshadowing**

The corner location of the subject property and its orientation reduces the potential for shadow impacts with the majority of the shadows cast falling on either Dudley Street or Mount Street. The residential flat building at 23 Dudley Street, adjoining to the west, is the only property that would be shaded by a proposed building on the subject site. The proposed apartment building has considered the existing shadow impact and has been designed to not increase the shadow impact to the neighbouring building at 23 Dudley Street.

Shadow diagrams prepared for the winter solstice are attached at Appendix B of this Statement of Environmental Effects and illustrate the shadow impacts of the existing building and the proposed building.

As can be ascertained from the shadow diagrams, 23 Dudley Street is currently shaded by the 3 storey building occupying 118 Mount Street. The two storey building at 120 Mount Street does not contribute any shadow to this adjoining property between 9.00am and 3.00pm during the winter solstice. The existing shadow impact is confined to 9am and would be clear of the adjoining building before 10.30am at the winter solstice.

The increased height will result in a longer shadow over the adjoining building. However, the rooms on the eastern elevation of 23 Dudley Street are non-habitable. The enclosed balconies in the north-eastern corner of 23 Dudley Street are the main habitable spaces to these dwellings.

The proposed building occupies a reduced footprint in the north-western corner in comparison to the existing building. Thus, despite the increased height, the point of overshadowing is setback reducing the extent of the 9am shadow to 23 Dudley Street. This will provide additional sunlight to the north-eastern enclosed balconies.

In addition, the increased setback in the north-western corner of the proposed building also results in the shadows being clear of 23 Dudley Street sooner than currently occurs. The proposed floor space of the building has been carefully distributed to ensure that the shadow impacts are acceptable in terms of the overshadowing of 23 Dudley Street.

**Privacy**

Privacy impacts have been addressed in the design of the proposed apartment building both in terms of impacts to the adjoining buildings and the proposed dwellings.

The room uses along the northern elevation have been confined to non-habitable rooms and a second bedroom for the ground floor and levels 1 and 2. The second bedroom has a narrow balcony. The room uses and highlight windows to the bathrooms ensures that there is no privacy impact to the building to the north (116 Mount Street). Likewise, privacy impacts to these northern dwellings are not
compromised by the elevated pedestrian walkway associated with 116 Mount Street. The balcony off bedroom 2 is fitted with a balustrade with 50% opaque glazing that will restrict sight lines to the room.

The penthouse (level 3) has a north facing terrace and living rooms. These are setback 3.5m from the wall alignment of the building below. Views from the terrace will overlook the roof of the adjoining building.

The louvered screen along the western elevation provides an effective privacy screen to 23 Dudley Street to the west. Room uses are also limited to non-habitable rooms reducing the opportunity for privacy impacts to the west.

Therefore there are no adverse privacy impacts arising as a consequence of the proposed additional floor space.

**Views**

As discussed above the adjoining residential building at 23 Dudley Street to the west has non-habitable rooms facing the subject site, with enclosed balconies facing their rear yard. This building does not enjoy any views over the subject site. The residential flat building to the north, 116 Mount Street has habitable rooms facing the subject site, however do not enjoy any views over the subject site. The additional floor space does not adversely impact upon the amenity of the neighbouring buildings in terms of views. The proposed apartment building and its landscaping will be a significant improvement on the outlook from the adjoining development into the subject site.

Views from the public domain will similarly not be affected by the proposed building.

**Bulk and Streetscape**

The bulk of the building has been considered in its design. As a means of establishing the bulk of a compliant building, the additional gross floor area of the building of approximately 200m² represents an area slightly larger than the 3 bedroom dwelling on level 3.

If this floor area were to be removed, then the impacts of the bulk of the building would only be slightly different. The main component of the building most visible and therefore most associated with its bulk relates to the lowest 3 levels. Level 3 has been recessed substantially to reduce the impacts of bulk and scale within the streetscape and when viewed from adjoining buildings. A near compliant building without Level 3 would only marginally reduce the bulk of the building.

The Statement of Environmental Effects describes the character of the area which exhibits much diversity in terms of built form, bulk, height and scale. The manner in which the upper floor has been recessed and treatment of the Mount Street elevation combine to reduce the visual bulk of the building when viewed from the street. The bulk of the building is considered to be consistent with development characteristic of the mixed residential area and the additional floor space is not considered to result in any adverse impacts to the streetscape or character of the area. The distribution
of the floor space of the building in this manner minimises the impacts of the building upon the amenity of the adjoining buildings and the public domain.

**Traffic and Parking**

The proposal can provide the required parking for the proposed number of dwellings. The parking is all contained within a basement avoiding any visual impacts of the parking within the streetscape, as is the case with many older style buildings.

The traffic generated by the proposed 12 resident car parking spaces and 3 visitor car parking spaces is considered to be low. By way of comparison the existing development provides only 4 car parking spaces for a total of 8 x 2 bedroom dwellings. This is well below the current parking requirements. Despite the increase in floor space and dwelling density, the proposal can comply with the Randwick Council parking requirements of the Development Control Plan – Parking.

As discussed in the example above, the additional floor space could be considered to relate to one 3 bedroom dwelling, or perhaps 2 x 2 bedroom dwellings. A reduction in the gross floor area would involve a subsequent reduction in the required parking by only 2 spaces. This would not result in any perceptible difference on the traffic generated by the proposed apartment building. The additional floor space and therefore dwelling density is not considered to cause any adverse impacts to the traffic generated by the proposal.

**Conclusion**

The additional floor space of the proposal multi-unit housing development equates to approximately 200m². The above assessment demonstrates that despite this departure, the proposal does not give rise to any adverse impacts to neighbouring developments or to the public domain in terms of streetscape. The proposed floor space therefore achieves the stated purpose of the development standard. A compliant building would not greatly improve the amenity of adjoining buildings in terms of shadow impact, privacy impacts, improvement of outlook or necessarily result in a better fit with the streetscape.

It is therefore considered unreasonable and unnecessary to comply with the floor space ratio development standard as the proposal does not give rise to adverse impacts and compliance will achieve little net gain to surrounding amenity.

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 generally minimises impacts to neighbouring properties despite the non-compliance of the proposal with the
density standard of 0.9:1. As discussed in this report, and the applicant’s SEPP 1 objection the FSR non-compliance will not result in overshadowing to surrounding residential properties, inadequate landscaping (increasing the quality of existing provision on the site despite non-compliance with the statutory standard). The building is of high quality design and the articulated nature of the design as viewed from all frontages of the site have reduced its visual bulk and will improve the appearance of the site from the street and surrounding properties.

The redevelopment of the site for multi-unit housing is consistent with the objectives of the 2(C) zoning. Current development on the site was constructed prior to Council’s current controls. The development will increase the availability of high quality residential accommodation in the area and will provide greater housing choice with a minimal increase in density (2 additional dwellings). The proposal complies with carparking requirements for the density of development proposal and maintains similar setbacks to the existing buildings on the site which has minimised the impact of the FSR non-compliance.

The corner location of the site provides for greater distribution of increased density and visual bulk than would normally be achieved on site of the size of the subject site. Surrounding buildings are of a similar bulk and scale to the proposal as indicated by the drawings and photos submitted with the application.

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

9.3 Desired Future Character

The site is 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 predominantly 2-4 storey 1950-70s walk-up flats, more contemporary residential flat buildings and large freestanding dwelling houses. The topography of the area makes differences in height difficult to discern and the maximum number of storeys of a building is often greater than the apparent number of storeys from the street. The development is of a consistent scale with the surrounding 3 storey residential flat buildings, some of which are built over parking and have pitched or parapet roof forms which increase their apparent bulk.

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

9.4 Site Planning

A site analysis plan was provided with the application. The site has been considered in terms of existing development, topography and vegetation. The site is regular in shape and has frontages of over 20 metres to both Mount and Dudley Streets. The site frontage
The dimension meets Council’s preferred solution of 20 metres and this assists in distributing the bulk of the building.

The proposal is satisfactory with regard to site planning.

9.5 Building Setbacks

The development provides setbacks to all boundaries. The front setback of the building to Mount Street is 5.2m and to Dudley Street is 3.2m at ground floor level. At upper floor levels projecting balconies reduce the setback to Mount Street to 3.6m. These setbacks are consistent with the existing buildings on the site and although slightly forward of the adjoining properties, the development is located on a corner site which warrants a reduced front setback to emphasise the street corner.

For the purposes of this assessment, the western boundary has been considered to be the rear boundary, however due to the site being a corner allotment, both the northern and western boundaries could be considered to be side boundaries (as entries are provided from both street frontages) and the lesser side setback requirements applied.

Setbacks to the western boundary are 5-8.1 metres. This setback complies with the average 5 metre requirement for side setbacks under the DCP for Multi Unit Housing, but does not achieve the preferred solution of a minimum of 6 metres and the average of 8 metres for rear setbacks under the DCP. Despite non-compliance with the rear boundary setback requirements, the proposal maintains and increases the western setback from the existing situation. The non-compliance with the rear setback preferred solution has not resulted in increased overshadowing or privacy impacts (there are no unscreened windows or balconies in the western elevation). The proposed setback provides adequate separation between the subject site and the adjoining property at 23 Dudley Street. The setback of the development reflects the general pattern of development in the area, where most buildings pre-date the current planning controls.

The development is setback 2.5-3.8 metres from the northern side boundary at Ground Level and Levels 1 and 2. This does not meet the preferred solution of an average of 5 metres under the DCP, but does meet the minimum requirement of 3.5 metres. At Level 3 the setback increases to 7.5 metres and this meets the average and minimum preferred solutions for side setbacks under the DCP and provides additional separation consistent with the height of this portion of the building. The increased setback delineates the top floor from the walls below and assists to articulate the building into a three storey form with a roof top dwelling above, rather than presenting a four storey scale to the street. At lower levels the proposal generally maintains the existing (non-compliant) setbacks, and increases setbacks at the eastern and western ends of the site by removing existing balconies and reducing the building footprint in the northwestern corner of the site. The development will remove a driveway from the northern boundary of the site in favour of increased soft landscaping which will improve the separation between the site and 116 Mount Street and outlook for both properties.

The development complies with the preferred solution for façade articulation to the northern elevation. The development does not meet the preferred solution for physical articulation to the western elevation, providing a wall surface (consisting of a louvred screen) of over ten (10) metres in length. However, the aluminium louvred screen proposed is considered to provide adequate façade articulation. The photomontage
provided of the screen indicates that this element will provide satisfactory visual relief and moulding due to the interplay of light and shade on the louvres.

The development is satisfactory with regard to setbacks.

9.6 Fences

The front fencing to Mount Street is provided by a landscaped hedge to a height of 1.35 metres. Although this height exceeds the preferred solution for front fencing being 1.2m for solid front fences, the use of landscaping is considered to soften the appearance of the fencing and minimises its impact on the street. The slightly higher fencing is appropriate as landscaped courtyards to ground floor units are proposed to the Mount Street frontage.

The front fencing to Dudley Street is proposed to be constructed of a solid wall from the southeastern corner of the site ranging in height from 1.4-1.7 metres for a length of 5.3 metres. Beyond this point the fencing is constructed of a clipped hedge with timber fence behind ranging in height from 1.7-2.0 metres. Although this fencing exceeds the preferred solution for front fencing under the DCP, the increased fence height is largely the result of the sloping topography and will provide privacy and security to the southernmost ground floor unit without detrimentally affecting the streetscape. The last 10 metres of the Dudley Street frontage is comprised of driveway and entry gates to the development. The eastern wall adjacent to the building entry is higher than adjacent fencing (approximately 3.0m) to provide privacy to the adjoining yard of the southernmost unit. A lower wall is provided on the western side of the entry and this is considered appropriate to maximise casual surveillance of the building entry from the street.

On the northern boundary, a 1.8 metre high fence is proposed from the proposed ground level (RL 56.40). This ground level is higher than the existing level along the northern side boundary due to the proposed removal of the existing driveway. Although the height of the fencing and retaining walls to the northern side will increase as a result of the proposal, the impact of this increase is mitigated by the levels of the existing building to the north (116 Mount Street). The existing building at 116 Mount Street has an elevated walkway entry on the southern boundary which is 1.08 metres higher (RL57.5) than the proposed ground level of the subject site. The ground level of the existing building is set at RL57.60 and is 1.2 metres higher than the proposed new ground level and 600mm lower than the top of the proposed boundary fencing. The lower ground level of 116 Mount Street is at RL54.94 and is approximately 1 metre below the proposed ground level of the subject site (2.8 metres lower than the top of the boundary fencing). This increase in fence height will not result in significant impacts to the lower ground level of 116 Mount Street which is non-habitable for the eastern half of the northern boundary (see photo below).
Above: Habitable lower ground areas to 116 Mount Street will not be affected by the raised fence height to the eastern portion of the common boundary.

To the rear the landscaping plan indicates hedges to be maintained to a maximum height of 2.5m above existing ground level on the rear boundary. Planting at this height will provide 1.0m high fencing from the driveway level at the subject site. The difference between ground levels on the site is approximately 3.5 metres and the provision of hedging will increase the effective fence height from 23 Dudley Street to 6 metres in places. A 1m high fence from the high side is considered reasonable to maintain safety from the subject site. In order to ensure the impacts on 23 Dudley Street are minimised Condition 4 requires the height of the hedges is to be maintained at 1.0m above finished ground level (including approved driveway levels) on the subject site.

The development, subject to compliance with conditions) is considered satisfactory with regard to the objectives for fencing under section 3.5 of the Multi-Unit Housing DCP.

9.7 Landscaping and Private Open Space

The development provides 49.5% (366m²) of the site area as landscaping. This does not comply with the statutory requirement under clause 31(2) of the RLEP98 of 50% (370.4m²) by 4.4m². 48.9% (181m²) of the required landscaping provision is located over basement or podium areas and complies with the maximum permissible under clause 31(3) of the RLEP98, being 50% (106m²) of the required landscaping. The applicant has submitted an objection under SEPP 1 to support the non-compliance with the overall landscaping standard. The applicant argues that compliance is unnecessary and unreasonable in the circumstances for the following reasons:

The variation to the landscaped area represents a departure of 5m² from the total landscaped area requirement which is considered to be minor. Clause 31 of Randwick LEP 1998 states as a note to the Clause that its purpose is:-

“Purpose: 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 landscape scheme for the proposal has been designed by Terragram (Landscape Architects) and examples of their completed work which have formed the vision for this scheme are attached to this SEPP I objection.

Landscaping to Soften the Visual Impact

Landscaped areas around the site have been designed to soften visual impacts.

The use of Syzigium luehanii (Lilly Pilly) along the western boundary is proposed to be hedged to a height of 2.5m. This will provide a landscape buffer between the proposed driveway and 23 Dudley Street and soften the edge of the driveway when viewed from Dudley Street.

A Hymenospermum falvum (Native frangipani) is proposed to be set amongst the Lilly Pilly hedging to provide a feature tree at the end of the driveway. With a height of between 6-8m this tree will also complement the grove of existing trees in the rear of 23 Dudley Street.

A row of Corymbia Citriodora (Lemon scented gum) is proposed along the southern setback to Dudley Street. The selection of these trees is partly to replace the existing Lemon scented gum within this setback, but also to form an architectural landscape element that will enable the smooth light-grey to white trunks to be offset against the solid wall elements of the proposed building’s southern elevation. The Mount Street elevation is the main street address and has been treated differently. Taller landscape forms are minimised to avoid shadow impacts to the courtyards, balconies and living areas of the building and to reinforce the street presentation of the building. The continuation of hedging along the Mount Street frontage will contribute a soft element to the street.

A row of Brachychiton acerifolius (Illawarra Flame Tree) are proposed within Council’s nature strip. This theme is continued into the site to mark the pedestrian entry from Mount Street and provide a visual break between the proposed building and the adjoining building in Mount Street.

This assessment demonstrates that the landscape treatment is carefully designed to respond to the architecture of the building, function of spaces and adjoining development whilst creating an overall landscaping setting that will enhance the development and minimise its visual impact. The visual impact objectives of the landscaped area development standard can be successfully achieved despite the minor departures from the landscaped area.

Landscaping to Reduce Urban Run-Off

The ‘hard’ landscaped areas of the site are located above the basement or confined to narrow pedestrian pathways and drying area which is proposed to be stone gravel finish to provide some degree of permeability. The pedestrian pathway leading from Mount Street is shown on the landscaping plan as a series of pavers with gravel infill to increase permeability. Planter boxes are also utilised on the basement to provide a soil depth suitable for the proposed landscaping.
We point out that these ‘hard’ landscaped areas comply with the maximum development standard that no more than 50% of the required landscaped area is to be over the basement/podium areas. However, the above measures have been deliberately incorporated into the landscape design to assist in reducing urban run-off. A detention basin is also proposed as part of the stormwater management design which is located underneath the deck of the ground floor courtyards. In addition, the first 5m of the driveway entry is proposed to be permeable paving to reduce stormwater run off.

Again the minor departure from the landscaped area will provide negligible additional benefit to reducing urban run-off. On-site stormwater detention and permeable paving measures together with the landscaped area will work to reduce and control stormwater run-off.

**Landscaping to Provide Adequate Areas of Open Space for Recreational Purposes**

When assessing the appropriateness of the landscaped area against the purpose of the development standard, the nature of the use being a multi-unit housing development must be given consideration.

The outdoor and landscaped areas associated with a residential flat building containing only 10 dwellings does not generate the need for a large communal recreational area. The proximity to other recreational opportunities within Coogee, particularly Coogee Beach and nearby parks and recreational lifestyle offered by this location in our opinion reduces the need for communal recreational spaces. The building design and site planning has considered the private passive recreational needs of the occupants by providing functional balconies for the upper level apartments and generous courtyards for the ground level apartments and that would adequately meet these needs. Whilst the ground level courtyards are private spaces the landscape design integrates these spaces into the overall landscape treatment of the site. The use of hedging and climbers on the dividing courtyard walls will provide a landscape setting.

The combination of elements within the courtyards including plantings, gravel, paving and timber decking should all be considered as part of the overall landscape treatment and effect as illustrated in some of the images by Terragram attached to this SEPP 1 objection.

In order to open up the space at the rear of the site, the masonry courtyard wall along the western edge of the stairway has been amended to screen consisting of stained timber vertical slats 125mm x 35mm spaced to provide 125mm gaps (in accordance with the BCA). This will create a visual link to the landscaping beyond for pedestrians within this area. It will also soften the appearance of the driveway entry reducing the apparent height of the basement wall.

Again the objective of the landscaped area development standard can be achieved in respect of open space for recreational purposes despite the minor 5m² departure.

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 landscape plan lodged with the application indicates retention of existing mature native trees as well as additional perimeter planting to all boundaries. The compliance of the development with all statutory requirements for landscaping provides generous areas of open space that can be used for recreational purposes and also makes a positive contribution to the streetscape.

A compliant area of deep soil planting is proposed which will ensure maximum stormwater infiltration in accordance with Council’s objectives for stormwater management and amenity. The proposal complies with the statutory standard for deep soil landscaping provision. The proposal provides adequate areas of communal and private open space which adds to the amenity of the units. Adequate landscaped area has been provided to the street frontages of the site which has ‘softened’ the appearance of the development from the street in accordance with the objectives of the landscaping standards. Despite non-compliance with the statutory standard, the proposal represents an improvement in the quality of the landscaping on the site and will provide good amenity for residents and the street.

Limited screen planting is proposed to the northern boundary with an alternative emergency egress path being required along this side of the site. Permeable paving (precast pavers with gravel between) has been proposed to soften the impact of this pathway and maximise stormwater infiltration. In order to achieve some planting to this boundary and soften the impact of the development in terms of visual privacy, Condition 5 requires changes to the basement to allow for deep soil planting adjacent to the egress path that will provide a buffer to existing windows in 116 Mount Street and provide a more leafy outlook than occurs currently (as the existing hardstand driveway is in this location). The additional deep soil provision will enhance the overall high quality landscape design proposed to the site and assist in screening the private open space of Unit 3 from the elevated pedestrian entry way to 116 Mount Street which is approximately 1 metre above the proposed ground level at the subject site.

The applicant has indicated in the SEPP 1 objection that the masonry wall to the courtyard garden at the northwestern corner of the building will be constructed of a timber screen and not masonry to minimise the visual bulk of this element. This change has been indicated on an amended western elevation and has been included in the plans for approval.

Council’s Landscape Officer has made comment regarding the proposal and is satisfied with the proposed landscaping subject to conditions of consent (see Conditions 114-127).

9.8 Privacy

The site benefits from having two street frontages, which has limited the number of directly adjoining neighbours to two (being the building to the west at 23 Dudley Street and to the north at 116 Mount Street).

Openings in the western elevation have been limited to secondary bedroom windows. These windows have been noted as being obscurely glazed. All other openings are screened by the louvred screen to the western elevation that will be fixed in position to
prevent direct overlooking of 23 Dudley Street (this has been clarified in Condition 2). There will be no privacy impact from the development on 23 Dudley Street.

The northern elevation of the development is comprised of highlight windows to non-habitable bathrooms, balconies and glazed doors to secondary bedrooms at Levels 1 and 2. At Level 3 a large roof terrace is provided with access from the master bedroom and living areas of Unit 10. The highlight windows to the lower levels of the northern elevation will not result any privacy impacts on 116 Mount Street. At Level 1 the balcony to the bedroom is located in a similar position to an existing balcony of 118 Mount Street and is unlikely to result in significant additional overlooking. However, at Level 2 the balcony is proposed directly opposite a south facing window at first floor level of 116 Mount Street with separation of 6.5 metres between the balcony and the window opening. The first floor level of 116 Mount Street approximates the level of the roof of existing development on the subject site and therefore this window at 116 Mount Street is not currently overlooked by development on the subject site.

In order to address the additional overlooking impact of the second level north facing balcony, Condition 5 requires modification to the basement footprint to allow for planting of a substantial tree in front of the balcony to screen the view to the existing windows of 116 Mount Street.

The roof terrace to Level 3 provides trafficable area up to 4 metres from the northern boundary and a comparison of levels and window locations reveals that this terrace provides for direct lines of sight into existing windows at 116 Mount Street, particularly to the western end of the southern elevation of 116 Mount Street.

In order to address the overlooking impact of the terrace, Condition 3 requires the trafficable area of the terrace be reduced. The reduction will increase the setback of the trafficable area of the terrace to 6.5m and consequently restrict the view angle from the terrace to the southern elevation of 116 Mount Street. The reduction in the area of the terrace will minimise overlooking whilst maintaining good north facing amenity to Unit 10 of the development. Due to 116 Mount Street being setback further from the street than the proposal, the reduction of the terrace area only needs to commence 10 metres from the street boundary of the subject site to protect affected windows. This will allow for a generous north facing area of terrace with good access from the living areas of Unit 10 which will not have privacy impacts as it will overlook the street.

The development has generally incorporated features to mitigate privacy impacts. Where privacy impacts may occur, conditions of consent have been recommended to ensure the development meets Council’s performance requirements and preferred solutions with regard to privacy.

9.9 View Sharing

Expansive views are not enjoyed from the subject site nor surrounding properties and the proposed development will not result in the reduction of views or outlook.

The development is considered satisfactory with regard to view and outlook sharing.

9.10 Solar Access and Energy Efficiency
With regard to solar access, the proposal meets the requirements of the DCP maintaining existing levels of solar access per day to the northern elevations of all surrounding properties and maintaining existing levels of solar access to the eastern elevation of 23 Dudley Street during the midwinter period. Additional shadow will affect the roadway at 12 noon and 3pm midwinter and the roof of 23 Dudley Street during midwinter mornings as a result of the proposal. Due to the articulation of the building and removal of pitched roof, the existing shadow impact to part of the eastern elevation of 23 Dudley Street and the rear of the subject site will be reduced from the existing situation by the development. The amenity of the adjoining dwellings will not be compromised by the development.

SEPP: BASIX overrides the objectives and preferred solutions of the DCP in terms of environmental performance.

The proposal is supported by a BASIX certificate and achieves the following BASIX requirements:

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<tr>
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<th>Proposal</th>
<th>BASIX Requirement</th>
<th>Complies</th>
</tr>
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<tbody>
<tr>
<td>30.</td>
<td>Water</td>
<td>40%</td>
<td>40%</td>
</tr>
<tr>
<td>34.</td>
<td>Energy</td>
<td>33%</td>
<td>25%</td>
</tr>
<tr>
<td>38.</td>
<td>Thermal comfort</td>
<td>Pass</td>
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</tbody>
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Relevant standard conditions reinforcing BASIX commitments have been imposed (see Conditions 19-22). The development is satisfactory with regard to energy efficiency.

9.11 Safety and Security

The development meets the requirements of the Multi-Unit Housing DCP with regard to safety and security. The development provides a primary entry to the development, which is accessed via a security gate. Individual entries to ground floor units are provided from Mount Street to improve the streetscape presentation of the development and the opportunities for casual surveillance. A security door is also provided to the carparking to ensure that access is limited to residents and legitimate visitors. Balconies have been oriented towards Mount and Dudley Streets wherever possible to allow for passive surveillance of the surrounding streets.

The development meets the safety and security requirements of Council’s Multi-Unit Housing DCP.

9.12 Parking

The development meets Council’s requirements with regard to resident and visitor car parking and bicycle parking provision. 15 vehicle spaces including 3 visitor spaces and a carwash bay have been indicated on the plans. A bicycle parking area has also been provided. The driveway width and gradient proposed from Dudley Street meets Council’s requirements. Council’s Development Engineer has provided comments that the carparking provision is satisfactory.
The development is considered to be satisfactory with regard to parking provision.

10. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.

11. CONCLUSION

The SEPP 1 objections lodged with respect to the statutory non-compliances generated by the maximum external wall, overall height, landscaped area provision and floor space ratio of the development are considered to be well founded in the circumstances.

It is considered that the proposed building is appropriate on the site given the desired future character of the area, the objectives contained within the RLEP98 and the Multi-Unit Housing DCP. The development proposes a building envelope, density and façade treatment that are of excellent design quality and fulfil these objectives.

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

RECOMMENDATION:

A. THAT Council support the objection under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with 31(2), 32(1), 33(2) and 33(4) of the Randwick Local Environmental Plan 1998 (as amended) relating to Landscaped Area, Floor Space Ratio, Overall Height and External Wall Height, on the grounds that the proposed development is consistent with the objectives of the clauses and will not adversely affect the amenity of the surrounding locality and that the department of Planning be advised accordingly.

AND

B. THAT Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No DA/945/2005 for Demolition of existing buildings on the site and construction of new 4 storey multi-unit housing development containing 10 dwellings and basement carparking for 15 vehicles at 118-120 Mount Street, Coogee subject to the following conditions:

1. The development must be implemented substantially in accordance with the plans drawn by Koopman Architects numbered Issue E of DA00 and DA03 and Issue F of DA01, DA02 and DA04, dated 23.03.06 and stamped received by Council on 6 April 2006, and Issue E of DA05 dated 28.03.06 and stamped received by Council on 6 April 2006 and drawings numbered Issue D of DA06 to DA10 dated March 2005 and stamped received by Council on 14 November 2005, and the Landscape Plan drawn by Terragram Pty Ltd, Revision C of drawing number L01 dated 29.9.2005 and stamped received by Council on 14 November 2005, the sample board prepared by Koopman Architects numbered Revision A of SP05 stamped received by Council on 14 November 2005 and the associated A4 sized coloured...
Item 5.2

101 elevations showing colours and finishes numbered DA06 and DA07 dated March 2005 and stamped received by Council on 6 April 2006, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

2. The louvres to the western elevation are to be fixed in position as indicated in drawing DA10. Details are to be provided on the plans submitted with the Construction Certificate application.

3. The balustrading to the north facing terrace on Level 3 is to be setback 6.5 metres from the northern boundary, starting at the western edge of the terrace for a distance 6.5 metres eastwards. The area of the terrace isolated by this change is to be made non-trafficable. Details required by this condition are to be included on the plans submitted with the Construction Certificate application. This condition is imposed to minimise overlooking of adjoining properties.

4. The hedging proposed to the western boundary is to be maintained at a maximum height of 1.0m above finished ground level (including approved driveway levels) on the subject site. If required, the height of the hedging may be increased to 1.2 metres in places to accommodate staggering of the hedge in response to sloping ground levels. Details are to be provided on the plans submitted with the Construction Certificate application. This condition is imposed to maintain safe boundary fencing whilst minimising the amenity impact of fencing on the adjoining property to the west.

5. A deciduous tree with a minimum mature height of 8 metres and an appropriate species to provide visual screening is to be provided in the northern courtyard of Unit 3. The tree is to be located in front of the proposed balconies to bedrooms on the northern elevation of the development. This is to be achieved by reducing the basement waste storage area by increasing the setback from the northern boundary to 3.0m for an additional 2.5 metres from the eastern end of the waste storage area. Details of the tree planting and basement changes to provide the increased deep soil area are to be included in the plans submitted with the Construction Certificate application. This condition is imposed to minimise the potential for overlooking of adjoining properties.

6. The requirements of the BASIX certificate with regard to common area lighting to the lift car and all other internal common areas (i.e: that compact fluorescent lighting fitted with appropriate lighting efficiency measures) are to be indicated on the Construction Certificate plans and are to be provided in the completed development. This condition is imposed to ensure the proposal meets the BASIX commitments indicated in the submitted certificate.

7. Metal roof sheeting is to be painted or colour bonded to minimise reflection and to be sympathetic and compatible with the building and surrounding environment.

8. There must be no encroachment of the structures onto any adjoining premises or onto Council’s road reserve, footway or public place, unless permission has been obtained from the owners of the adjoining land accordingly.
9. 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.

10. All plumbing and drainage pipes, other than rainwater heads, gutters and downpipes, must be concealed within the building.

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

12. 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.

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. The applicant is to ensure that the development meets the requirements of relevant authorities such as Australia Post and Energy Australia to ensure adequate facilities and utilities are provided to residents.

15. 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.

16. 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.

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.

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

19. In accordance with Section 80A (11) of the Environmental Planning and Assessment Act 1979 and Clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.
20. In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the **Construction Certificate** application for this development.

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, to the satisfaction of the Certifying Authority.

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

21. The following provisions are to be implemented in accordance with the relevant BASIX Certificate and details are to be included in the Construction Certificate documentation (as applicable), to the satisfaction of the Certifying Authority:

- Stormwater management (i.e. rainwater tanks)
- Water efficiency (i.e. triple A rated taps and showers, dual flush toilets and water re-use)
- Landscaping provisions
- Thermal comfort (i.e. construction materials, glazing and insulation)
- Energy efficiency (i.e. cooling & heating provisions and hot water systems)

22. In accordance with Clause 154B of the Environmental Planning & Assessment Regulation 2000, a Certifying Authority must not issue a final Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

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

**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 $2,731.99
   b) for the provision or improvement of community facilities $1,208.06

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 applied to maintain reasonable levels of environmental amenity and public health safety.

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

- New South Wales Occupational Health and Safety Act, 2000;
- The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
- Protection Of the Environment Operations Act 1997 (NSW) and


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:

26. 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 rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 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 L_{Aeq, 15 min} and adjusted in accordance with the NSW Environmental Protection Authority’s Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

27. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.

28. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council prior to an occupation certificate being issued for the development, which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the Protection of the Environment Operations Act 1997, NSW Environmental Protection Authority Noise Control Manual & Industrial Noise Policy and conditions of Council’s approval, to the satisfaction of Council’s Manager Environmental Health & Building Services.
The following conditions are applied to satisfy the relevant pollution control criteria and to maintain reasonable levels of health, safety and amenity to the locality:

29. The use and operation of the premises shall not give rise to an environmental health or public nuisance and there are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations.

30. The location and facilities for the collection, storage and disposal of wastes generated within the premises shall be submitted to and approved by Council prior to the commencement of works.

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

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. 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.

34. 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.

35. 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.

36. 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”.

37. 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.

38. 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 must also be provided to Council with the occupation certificate.

39. 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.

40. The building is required to be provided with a smoke alarm system complying with Clause 3 of Specification E2.2a of the Building Code of Australia or a smoke detection system complying with Clause 4 of Specification E2.2a of the Building Code of Australia or a combination of a smoke alarm system within the sole-occupancy units and a smoke detection system in areas not within the sole-occupancy units. The smoke detectors located within the stairway, corridors or the like must be interconnected.

Additional requirements regarding the design and installation of the smoke detection and alarm system may be specified in the construction certificate for the development.

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

41. Documentary evidence prepared by a suitably qualified professional geotechnical engineer shall be submitted to the certifying authority prior to the issuing of a construction certificate, certifying the suitability and stability of the site for the proposed building and certifying the suitability and adequacy of the proposed design and construction of the building for the site.

42. A report shall be prepared by a professional engineer and submitted to the certifying authority prior to the issuing of a construction certificate, detailing the proposed methods of excavation, shoring or pile construction, including details of potential vibration emissions. The report, must demonstrate the suitability of the proposed methods of construction to overcome any potential damage to nearby land/premises.
Any practices or procedures specified in the engineer’s report in relation to the avoidance or minimisation of structural damage to nearby premises, must be fully complied with and incorporated into the documentation for the **construction certificate**.

A copy of the engineers report is to be submitted to the Council, if the Council is not the certifying authority.

43. Driven type piles/shoring must not be provided unless a geotechnical engineer’s report is submitted to the certifying authority, **prior to the issuing of a construction certificate**, which demonstrates that damage should not occur to any adjoining premises and public place as a result of the works.

Any practices or recommendations specified in the engineer’s report in relation to the avoidance or minimisation of structural damage to nearby premises or land must be fully complied with and incorporated into the documentation for the **construction certificate**.

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

a) all of the premises adjoining the subject site.

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

45. The installation of ground or rock anchors underneath any adjoining premises including (a public roadway or public place) must not be carried out without specific written consent of the owners of the affected adjoining premises and (where applicable) details of compliance must be provided to the certifying authority **prior to the commencement of any excavation or building works**.

46. 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:

47. 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.
48. 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.

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

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

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

50. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- preserve and protect the building/s on the adjoining land from damage; and
- if necessary, underpin and support the building and excavation in an approved manner; and
- at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention to do so to the owner of the adjoining land. Particulars of the excavation are to be provided to the owner of the adjoining land and also the owner of the land where the building is being erected or demolished.

51. 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.

52. 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.

53. 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.

54. 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.

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

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

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

56. 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.

57. 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.

58. 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.

59. 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.

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

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

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

61. 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.
61A. 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.

Details of the proposed sediment control measures are to be detailed in a site management plan and must be submitted to and approved by the principal certifying authority prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy is to be maintained on-site and be made available to Council officers upon request.

Details of proposed sediment and erosion control measures shall include: a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

62. 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.

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.

63. 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.

64. 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.
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.

Temporary fences or hoardings 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.

65. 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 or 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 (grater than 3m in length) or any container or other article.

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

66. The following damage/civil works security 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) $1000.00 - Damage / Civil Works Security Deposit

The damage/civil works security 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; and
Completion of the civil works as conditioned in this development consent by Council.

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.

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

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

   a) Construct a heavy duty concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site in Dudley Street;

   b) Remove all redundant concrete vehicular crossings and laybacks and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification;

   c) Reconstruct any damaged sections of kerb and gutter along both the Mount Street and Dudley Street site frontages (including associated roadworks);

   d) Reconstruct the concrete footpath along both the Mount Street and Dudley Street site frontages. Any unpaved areas on the nature strip must be turfed and landscaped to Council’s specification.

   e) Extend Council’s stormwater pipeline in Dudley Street up to the western site boundary and construct a new kerb inlet pit.

Note: The new kerb inlet pit shall be constructed in general accordance with Council’s standard drawing SD7a.

68. 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.

69. 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.
70. All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate showing compliance with this condition.

71. The driveway opening at the Dudley Street frontage must be minimum 5.50 metres wide and located at least 1.5 metres clear of the side property.

72. The internal driveway must be a minimum of 5.50m wide (clear width) for the first 6 metres inside the property so as to allow entering & exiting vehicles to pass within the site. Should the driveway narrow after this point it is then to be designed with a minimum 1.5m x 1.5m splay to allow the passing to work.

73. A Works Zone is to be provided in either Dudley Street or Mount Street for the duration of the construction works. The ‘Works Zone’ shall be provided to the satisfaction of the Randwick Traffic Committee and shall have a minimum length of 12 metres. The prescribed fee for the Works Zone must be paid to Council at least four (4) weeks prior to the commencement of work on the site.

It is noted that the requirement for a Works Zone may be waived if it can be demonstrated (to the satisfaction of Council’s traffic engineer) that all construction related activities (including all loading and unloading operations) may be undertaken wholly within the site.

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

74. The Council’s Development Engineer has inspected the above site and has determined that the design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, must:

- **Match the back of the existing footpath along the full site frontages in both Mount Street and Dudley Street.**

Any enquiries regarding this matter should be directed to Council’s Development Engineer on 9399 0923.

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

75. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate.

76. The above alignment levels and the site inspection by Council’s Development Engineer have been issued at a prescribed fee of $2406 calculated at $44.00 (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:
77. 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.

78. 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.

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

80. 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.

81. The applicant shall meet the full cost of the overhead power lines and telecommunication cables located in the vicinity of the development site to be relocated underground and all redundant power poles to be removed. The applicant shall liaise directly with the relevant service utility authorities to organise for the cables to be relocated. All cables must be relocated underground to the satisfaction of the relevant service utility authority prior to the issuing of an occupation certificate for the development.

82. All power supply and telecommunications cabling to the development shall be underground.

83. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the website www.sydneywater.com.au then refer to “Water Servicing Coordinator” under Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure 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 occupation of the development.

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

84. The floor level of all habitable and storage areas (excluding the basement carpark) shall be at a minimum RL of 55.84 (AHD).

Note: The submitted Ground Floor Plan DA02 Rev F demonstrates compliance with this requirement.

85. The proposed internal driveway (and the proposed staircase from the basement carpark to the ground floor) must be designed with a high point at a minimum RL of 55.69 (AHD).

Note: The submitted Ground Floor Plan DA02 Rev F demonstrates compliance with this requirement.

86. All windows, vents and other openings into the basement carpark (excluding the driveway opening) must be located above RL 55.84 (AHD).

87. All structural walls on the ground floor level shall be designed to structurally withstand hydrostatic pressure/stormwater inundation from floodwater during the probable maximum flood (PMF) event as defined in the Floodplain Management Manual (New South Wales Government, January 2001). Structural Engineering certification confirming that this condition has been complied with shall be submitted to the certifying authority prior to the issuing of a construction certificate.

It is noted that this requirement does not necessitate the development being flood proof/water tight up to the PMF event, rather the requirement is to ensure that the development will not be structurally damaged in manner that could endanger lives during the PMF event.

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

a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.

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

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

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

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

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

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

89. 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.

90. All site stormwater must be discharged to the underground drainage system in Dudley Street, via a new kerb inlet pit and extension of the existing stormwater pipeline in Dudley Street to the western site boundary.

   Note: The new kerb inlet pit shall be constructed in general accordance with Council’s standard drawing SD7a.

91. With the exception of the site discharge pipe, all new pipelines constructed within council’s road reserve shall be minimum 375 mm diameter, spigot and socket rubber ringed jointed, steel reinforced concrete pipeline (RRRCP). Prior to backfilling, all pipelines in council’s road reserve shall be inspected and approved by the Hydraulic Engineer certifying the works and Council.

92. Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line.
93. A work-as-executed plan prepared and signed by the hydraulic engineer or a registered surveyor, must be submitted to Council prior to the issuing of an occupation certificate, detailing the as constructed details for all works within Council’s road reserve (including detailed levels).

94. All drainage details (for the external drainage works) shall be prepared by a suitably qualified hydraulic consultant who shall, at the completion of the works, inspect the site and certify that the drainage works have been constructed in accordance with the approved drainage plans and relevant standards. The plans and specifications for all works on Council property shall be submitted to and approval by Council prior to the issuing of a construction certificate.

95. On-site detention must be provided to ensure that the maximum discharge from the above site is not to exceed that which would occur during a **1 in 10** year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the above site for all storms up to the **1 in 20** year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by the Development Engineer. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

**Should no formal overland escape route be provided for storms greater than the design storm, the on-site detention system shall be sized for the 1 in 100 year storm event.**

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

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

96. The detention area must be regularly cleaned and maintained to ensure it functions as required by the design.

97. The maximum depth of ponding in above ground detention areas shall be as follows:

a) 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
b) 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10.
c) 1200mm in landscaped areas where a childproof fence is provided around the outside of the detention area

Notes:
- It is noted that above ground storage will not be permitted in basement carparks or in any area which may be used for storage of goods.
- Mulch/bark must not be used in onsite detention areas
98. Any above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

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

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

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

101. A 'V' drain is to be constructed along the perimeter of the property, where required, to direct all stormwater to the detention/infiltration area.

102. A reflux valve shall be provided (within the site) over the pipeline discharging from the site to ensure that stormwater from the Council drainage system does not surcharge back into the site stormwater system.

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

   The pump system must also be designed and installed strictly in accordance with "Section 8.4 PUMP SYSTEMS" as stipulated in Randwick City Council's Private Stormwater Code.

104. A sediment/silt arrester pit must be provided within the site at or near the street boundary prior to the site stormwater discharging to the street drainage system. The sediment/silt arrester pit shall be constructed in accordance with the following requirements:-

   • The base of the pit located a minimum 300mm under the invert level of the outlet pipe.

   • The pit constructed from cast in-situ concrete, precast concrete or double brick.

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

   • A galvanised heavy-duty screen located over the outlet pipe/s (Mascot..."
GMS multipurpose filter screen or equivalent).

- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system provided for the access grate.
- A sign adjacent to the pit stating:

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

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

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

Notes:

a. The “restriction on the use of land” and “positive covenant” are to be to the satisfaction of Council. A copy of Council’s standard wording/layout for the restriction and positive covenant may be obtained from Council’s Development Engineer.
b. If new linen plans are being prepared for the site, the plans shall indicate the location and dimensions of the detention/infiltration areas.

106. **One** covered car washing bay shall be provided for this development.

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

b) The car washing bay must be located outside any required/approved stormwater detention system.

c) The car washing bay must be signposted with ‘Exclusive Carwash Bay Use Sat 2:00pm – 5:00pm and Sunday 10:00am – 2:00pm, Visitor parking at other times’

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

e) A water tap shall be located adjacent to the car washing bay.
107. Prior to the issuing of an occupation certificate, the applicant shall submit to Council, a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced Hydraulic Engineer. The works-as-executed drainage plan shall be to the satisfaction of the Principal Certifying Authority (PCA) and shall include the following details:

a) The location of the detention basin with finished surface levels;
b) Finished site contours at 0.2 metre intervals;
c) Volume of storage available in the detention areas;
d) The location, diameter, gradient and material (i.e PVC, RC etc) of all stormwater pipes;
e) The orifice size(s) (if applicable);
f) Details of any infiltration/absorption systems; and
g) Details of any pumping systems installed (including wet well volumes).

108. Prior to the issuing of an occupation certificate, the applicant shall submit to the Principal Certifying Authority (PCA) and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with the conditions of development consent. The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the PCA.

109. Should groundwater/seepage water be encountered within the depth of the basement excavation, the basement car park is to be suitably tanked and waterproofed. A Structural Engineer/Geotechnical Engineer shall certify the tanking & waterproofing has been carried out to an acceptable standard and a copy of the certification is to be forwarded to Council.

Notes:-

a) Any subsoil drainage (from planter boxes etc) is to be disposed of within the site and is not to be discharged to Council’s kerb & gutter and/or underground drainage system.

b) Adequate provision is to be made for the ground water to drain around the basement car park (to ensure that the basement will not dam or slow the movement of the ground water through the development site).

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

110. The waste storage area shall be sized to contain a total of 10 x 240 litre bins (5 garbage bins & 5 recycle bins) whilst providing satisfactory access to these bins.

111. 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.

112. The waste storage areas shall be clearly signposted.
Prior to the issuing of a construction certificate for the proposed development 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 development site.

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

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

114. The landscape plan submitted by TerraGram Pty Ltd, drawing number L01, revision C, dated 29.09.2005 and stamped received at Council on 14th November 2005, is deemed unsatisfactory, and will need to be amended to include the following additional requirements, to the satisfaction of the certifying authority, prior to the issue of a construction certificate:

a. Existing trees within the property and on Council’s nature strip shall be clearly identified as being retained or removed, with proposed finished ground levels shown as spot levels throughout the site.

b. Reduction in the amount of Corymbia maculata (Spotted Gums) proposed along the southern edge of the proposed dwelling as five in this area is considered excessive given their large size at maturity and the relatively small area they would be growing within. A maximum of two shall be shown in this area, comprising one beyond the western and eastern edges of the proposed basement level, with more appropriately sized species to be used along the remainder of the southern boundary.

c. Provision of stepping stones or similar in those mass planted, continuous garden areas proposed along the southern, eastern and northern edges of the proposed development in order to facilitate maintenance access as well as to maximise the useability of the private open spaces available to occupants.

d. Incorporation of additional accent plants (foliage, form, colour) within those mass planted, continuous garden areas throughout the site, as well as at all proposed pedestrian entry/exits.

e. Only those low growing, low maintenance species shall be selected for planting along the southern and eastern boundaries, in front of the proposed boundary fencing. They will not have the capacity to encroach onto the footpath and will not require regular maintenance to contain their size, shape or form.

f. A more cohesive and uniform landscape treatment in the area between the proposed vehicle entry and western edge of the proposed development, surrounding the stairwells, using more substantial species.
g. A planting plan which indicates the location of all proposed planting at their mature size 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, lighting and any other landscape elements in sufficient detail to fully describe the proposed landscape works.

e. Sectional elevations through the site showing the existing and proposed ground lines, building elevations, and mature height of proposed planting.

f. All planter boxes constructed on slab must have a minimum soil depth of 600mm. Details shall be submitted with the detailed landscape plans.

g. 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.

h. Porous paving shall be used in all paved areas not over slab. Details are to be provided with the construction certificate application.

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

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

116. To ensure satisfactory maintenance of the landscaped areas, an automatic drip irrigation system shall be installed throughout all planted areas in order to provide full coverage with no overspray onto driveways and pathways, with details of the system to be shown on the detailed landscape plans, to all current Sydney Water requirements.

117. The naturestrip upon both of Council's footways shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar. Such works shall be installed prior to the issue of a final Occupation Certificate.

118. The naturestrip upon Council's footway shall be maintained by the applicant in accordance with Council guidelines. Such maintenance shall include, but not be limited to, watering, mowing, fertilising, and the removal of weeds.
119. Any substation required shall be screened from view. The proposed location, elevation and screening method shall be shown on all detailed landscape drawings and specifications.

120. 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.

121. 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.

122. Prior to the issue of a construction certificate, the applicant shall submit total payment to Council for,

   a. Removal of the western most *Banksia integrifolia* (Coastal Banksia) on the Dudley Street nature strip to accommodate the proposed vehicle crossing and entry ramp as shown; and

   b. To supply and install 1 x 25 litre *Banksia integrifolia* (Coastal Banksia) on the Dudley Street frontage to the east of the proposed vehicle crossing, as well as 4 x 25 litre *Banksia integrifolia* (Coastal Banksia’s) evenly spaced along the Mount Street nature strip at the completion of all works; and

   c. To compensate Council for the loss of amenity caused by removal of the western most *Banksia integrifolia* (Coastal Banksia) from the Dudley Street nature strip.

The contribution shall be paid at the Cashier on the Ground Floor of the Administrative Centre prior to a construction certificate being issued for the development, with the applicant required to contact Council’s Landscape Development Officer on 9399-0613 to arrange for all relevant costs associated with this condition to be calculated.

123. The following trees shall be removed from site in order to accommodate the development as proposed, subject to the planting of a minimum of 6 x 100 litre broad canopied replacement trees (not palms) suitably located within those areas of deep soil around the perimeter of the site. The species selected shall be those which will attain a minimum height of between 6-20 metres upon maturity.

   a) One Rhus Tree against the southwest corner of the existing dwelling at 120 Mount Street,

   b) One *Olea europaea* (Olive Tree) along the northern boundary of 120 Mount Street,

   c) One *Persea americanna* (Avocado Tree) in the northwest corner of 120 Mount Street,
d) One *Corymbia citriodora* (Lemon Scented Gum) along the southern boundary of 120 Mount Street,

e) One *Grevillea* cultivar along the southern boundary of 120 Mount Street.

124. Permission is granted for the selective pruning of only those lower growing overhanging branches from the eastern side of the eastern most *Eucalyptus bicostata* (Southern Blue Gum) located within the rear yard of 23 Dudley Street, in order to avoid conflict/damage to branches from site machinery during the course of demolition and construction works. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, it shall be necessary for the applicant to negotiate with the tree owner. All pruning must be undertaken by a qualified Arborist, minimum qualification Certificate 4 in Arboriculture, to Australian Standard AS 4373-1996 'Pruning of Amenity Trees.'

125. In order to ensure the retention of the two *Banksia integrifolia* (Coastal Banksia’s) on the Dudley Street nature strip, to the east of the proposed vehicle crossing 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 their retention with the position of their trunks and full diameter of their canopies clearly shown on all drawings.

b. The trees are to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing which is to be located a minimum distance of 1.5 metres from the outside edge of their trunks to completely enclose both trees.

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.

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

e. Should pruning of any branches from these street trees be needed in order to avoid conflict/damage during site works, the applicant will be required to contact Council’s Landscape Development Officer on 9399-0613, giving at least 48 hours notice, to arrange for such work to be carried out. Pruning of these street trees shall only be undertaken by Council or Council’s authorised agents, with the applicant required to reimburse Council for the cost of such work, prior to the issue of final occupation certificate.
126. A refundable deposit in the form of cash, cheque or bank guarantee (with no expiry date) for the amount of $6,000.00 shall be lodged with Council prior to a construction certificate being issued for the proposed development to ensure the implementation and maintenance of the landscape works in accordance with the approved landscape documentation.

a. The refundable deposit will be released twelve (12) months after the issue of a final occupation certificate by the principle certifying authority providing the landscape works have been successfully implemented and maintained in accordance with the approved landscape documentation. Throughout the maintenance/bond period, the applicant shall be responsible for all routine maintenance such as 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.

127. In order to organise for an inspection for the release of the security deposit, the applicant/Principal Certifying Authority shall liaise with Council’s Landscape Development Officer 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 Customer Service Centre to organise for a further inspection to be undertaken.

ADVISORY MATTERS:

A1. The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA).

In this regard, the development consent plans do not show compliance with the deemed-to-satisfy provisions of the BCA, including:

a) Part B1 - Structural provisions  
b) Part C1 - Fire resistance and stability  
c) Part C2 - Compartmentation and separation  
e) Part C3 - Protection of openings  
p) Part E1 - Fire fighting equipment  
q) Part E2 - Smoke Hazard Management  
r) Part E3 - Lift Installations  
s) Part E4 - Emergency lighting, exit signs & warning systems  
t) Part F1 - Damp and weatherproofing  
w) Part F4 - Light and ventilation
x) Part F5 - Sound Transmission and Insulation

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

You are advised to ensure that the development is not inconsistent with Council’s consent and if necessary consult with Council’s Building Certification Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

A2. The applicant/owner is advised that this approval does not guarantee compliance with the provisions of the Disability Discrimination Act 1992 and the applicant should therefore consider their liability under the Act. In this regard, the applicant is advised that compliance with the requirements of the Building Code of Australia and Australian Standard 1428.1 - Design for Access and Mobility does not necessarily satisfy the objectives of the Disability Discrimination Act 1992.

A3. The applicant/owner is requested to give consideration to providing access and facilities for people with disabilities in accordance with Australian Standard 1428 Parts 1, 2, 3 and 4 - Design for Access and Mobility, which may be necessary to satisfy the objectives of the Disability Discrimination Act 1992.

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

ATTACHMENT/S:

Nil

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SIMA TRUUVERT RACHEL AITKEN
DIRECTOR, CITY PLANNING SENIOR ASSESSMENT OFFICER
Development Application Report

REPORT BY: DIRECTOR, CITY PLANNING


PROPOSAL: Proposed partial demolition, restoration and reconstruction of Flower Wards 2, 4, 5 & 6 buildings and Hill Building No. 2 to provide for future residential development.

PROPERTY: 1 Coast Hospital Road, LITTLE BAY

WARD: South Ward

APPLICANT: LANDCOM

OWNER: LANDCOM
1. EXECUTIVE SUMMARY

The application is referred to Council as the proposed development is valued at $5.9 million.

The application is for the partial demolition, restoration and reconstruction, including new additional/ altered elements, to the buildings known as Flower Wards 2, 4, 5 and 6 and Hill Building No. 2 at the Prince Henry site to provide for future residential development. The application essentially is for external works with details of internal works (including layout of dwelling units, numbers of bedrooms, and floor areas) associated with the proposed residential use will be the subject of a separate subsequent development application.

The proposal is permissible under Randwick Local Environmental Plan 1998 and complies with all the controls contained in the LEP. The application also complies with all the relevant prescribed controls in the Prince Henry Development Control Plan.

The proposal will not give rise to any detrimental impacts to surrounding uses in terms of solar access, ventilation, privacy and views.

The proposal is an “integrated development” as the subject site is located within the Prince Henry conservation area which has been gazetted in the State Heritage Register. Accordingly, the application was referred to the Heritage Council of NSW for approval, and notified and advertised for a period of 30 days in accordance with the EP&A Act 1979 (as amended). The Heritage Council has issued its General Terms of Approval for the proposed development which have been incorporated as conditions of consent. No submissions were received in response to the advertising/notification process.

The site that is the subject of the proposed development, forms part of a development precinct identified in the Master Plan for the Prince Henry site which was adopted in December 2001. Under the amendments to the Environmental Planning and Assessment Act 1979 gazetted on 16 June 2005, the Master Plan is now made a Deemed Development Control Plan (Deemed DCP). The proposal is consistent with the requirements of the Deemed DCP and will be sympathetic to the existing and future developments in locality.

The recommendation is for approval of the application subject to conditions.

2. THE PROPOSAL

The proposal is for the partial demolition, restoration and reconstruction including new additions to the buildings known as Flower Wards 2, 4, 5 and 6 and Hill Building No. 2 at the Prince Henry site. The proposed works are primarily external works which are intended to allow these buildings to function as residential flat buildings.

It should be noted that details of internal works, including layout of dwelling units, numbers of bedrooms, and floor areas associated with the proposed residential use will be the subject of a separate subsequent development application. The applicant advises in the Statement of Environmental Effects (SEE) that the proposal is formulated on the basis that there will be a minimum of four residential units per each of the subject Flowers Wards, consistent with the Masterplan. For each building, two (2) residential units will be
located either side of the central entry. In total, the future residential component of the Flower wards will likely be sixteen (16) or more units, with the addition of two (2) additional units in Hill Building No.2. The internal works associated with residential apartments will be the subject of a separate Development Application.

The SEE also states that the principal aim of the Development Application is to ensure that the external works to the subject Flowers Wards are designed and constructed in a consistent way consistent with the relevant Special Element Conservation Policies (SECPs) for the Flowers Ward Group and individual Flowers Wards. The proposed works to the external fabric of Flowers Wards No.2, 4, 5&6 and Hill Building No.2, including the link between Flowers Ward No.5, Hill Building No.2 and Flowers Ward No.6, are based on the following objectives:

- Partial demolition or removal of unsympathetic elements;
- Conservation of the significant fabric of the buildings and their setting or curtilage;
- Reconstruction of missing elements that are an important part of the significance of the Flowers Ward group and the Prince Henry site; and,
- The addition/alteration of elements that will allow the buildings to function as residential units and suit contemporary living.

In detail, the current proposed works comprise of the following:

2.1 Flowers Wards No.2, 4, 5 & 6

- Demolition works to remove unsympathetic elements in the existing buildings and to facilitate additional new works including stairs and access ramps and walls for garage openings.

- Conservation works to conserve primary building envelopes of brickwork, slate roofs, timber windows and doors and landscape works to maintain a simple and open curtilage of ‘grass planes’ with specimen trees.

- Reconstruction works for:

  **All Buildings**

  - Reinstatement of cast concrete verandah columns and balustrades, ledges and brackets;
  - Reconstruction of missing timber details such as eave brackets and mouldings, lattice screens and timber louvered doors;
  - Reconstruction of metal details such as the railings to the external stairs on the eastern side of the Flowers Ward pavilions;
  - Replacement of timber framed and glazed central entry doors and sidelights; doors and windows that were removed or unsympathetically altered;
  - Construction of some eastern stair access; and,
  - Reconstruction of ramps and pathways (with kerbs) to the central entries on the west side of the Flowers Wards.

**Additional/Altered Elements**
Undercroft basement parking

- Provision of one driveway either side of the central (eastern) entry to give access to a garage area below floor level. The driveway will be 3.5m wide with a garage door opening 4.4m wide to give single access to future undercroft parking for two (2) cars per unit. The parking area will be shared and will provide separate internal access to the units located directly above; and,
- Installation of sliding garage doors, timber framed with louvres similar to the detailing of the existing timber louvered doors on the buildings.

Access to Flowers Wards No.2

- Provision of access to the northernmost and southernmost units from the street will be via the eastern stairs. The existing stairs will be demolished and rebuilt with an extended landing, which will allow access from the landing to the verandah. Accordingly, the portion of balustrade adjacent to the landing will not be reconstructed so that access is possible.

Access to Flowers Wards 4, 5 & 6

- Provision of access to the northernmost and southernmost units will be from the west. Therefore, the portion of cast concrete balustrade at the far ends of each verandah will not be reconstructed in order to make this access possible.

Verandah Screens and Blinds – All Buildings

- Construction of an operable glazed screen wall behind the line of the reconstructed archway openings of the eastern “ablution blocks”, in order to minimise the number of partitions within the main ward spaces of the Flowers Ward pavilions. The screen wall will have fine steel frames, the setback allowing a small Juliet balcony to be provided.
- Installation of a contemporary version of the timber frame and canvas blinds, which sat between and slightly behind the concrete verandah columns. The blind fabric will be a synthetic weave, light cream colour equal to Reflex Soltis 86, in a cream colour, while the support system will consist of fine stainless steel guides.
- Installation of a blind similar to the abovementioned to be located across the verandah in order to provide privacy between the verandah spaces of the units.
- Installation of a low level screen (equal to the height of the concrete balustrade) at the main entry using the same fabric and stainless steel frame to delineate the private verandah spaces from the main entry.

2.2 Hill Building No. 2 (Including the link between Flowers Ward No. 5, Hill Building No. 2 and Flowers Ward No. 6)

- Demolition works to remove the metal sheet from the central portion of the flat roof of the building to provide ventilated skylights; create openings in the eastern wall for windows where indicated; and remove the eastern facade of the link to the Flowers Wards.
Conservation of primary building envelopes of brickwork, slate roofs, timber windows and doors.

Reconstruction works for:

**Additional/Altered Elements**

- Addition of new fenestration including; new windows on the east face; steel framed combined skylight – window units on the south face as an interpretation of the early operating theatre windows; side doors to the proposed decks similar to that documented for the Flowers Ward No.3 and Hill Building No. 2 under DA1015/04, as lodged with Council in December 2004. These new openings are designed as fine copper framed elements to distinguish them from the existing painted timber fenestration;

- Provision of a new glazed wall along the eastern wall of the link to Hill Building No. 2 to permit greater flexibility in the planning of the building for future residential use. As this part of Hill Building No. 2 (HB2) is largely hidden from view by the north-eastern projection of the buildings and south-eastern corner (ablution block) of Flowers Ward No.5, the link will not be visually intrusive.

- Rebuilding of the eastern wall of the link between Flowers Ward No. 5&6 and Hill Building No.2 as a steel framed, glazed link similar to that proposed for the link between Flowers Ward No.3&4 and Hill Building No.1.

- Addition of timber decks with steel flat bar balustrades are proposed between Flowers Ward No.5 and Hill Building No.2, Flowers Ward No.6 and Hill Building No.2.

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

The existing Flowers Ward 2, 4, 5 and 6 and Hill Building No. 2 is located in the southern part of the Prince Henry site, between Ewing Avenue to the east and Brodie Avenue to the west. It contains four originally identical buildings (of a group of six) that are referred to as the Flowers Ward buildings. The Hill Building No.2 (formerly Hill Theatre 2) is located between Flowers Wards Nos.5&6. The subject site forms part of a Historic Precinct within the Prince Henry site.

Development in the locality is as follows:

To the North:

To the north of the subject site, moving from west to east are Flowers Wards No.1&3 and the site of a demolished building that is located to the north of Flowers Ward No.5 (Lot 43). Further to the north is the former Nurses Dining Hall (Lot 42) and Pine Avenue.

To the East:

To the east of the site is Ewing Avenue, with the sites of demolished buildings on the opposite side (Lot 75), and The Coast Golf Course beyond.

To the South:
To the south behind Flowers Ward Nos.2 & 4, are Fleming Street and Heffron House (formerly a ward building). To the south of Flowers Ward No.6 is Gull Street and the Delaney Building, which was also a former ward building.

To the West:

To the west of the site is Brodie Avenue and vacant land that is elevated above the subject site and adjoins Anzac Parade.

4. SITE HISTORY

The site forms part of the wider area known as the ‘Prince Henry Hospital site’ that was previously used as the Prince Henry (Coast) Hospital.

The site as a whole has been subject to a lengthy strategic planning process. On 27 May 2003 Council adopted a revised master plan for the former Prince Henry Hospital site effective for five years from that date. The Master Plan created a new residential and community precinct with a variety of land uses including retail, commercial, open space, recreation and community facilities. Under the amendments to the Environmental Planning and Assessment Act 1979 gazetted on 16 June 2005, the Master Plan is now made a Deemed Development Control Plan (Deemed DCP). On the 18 October 2005, Council adopted amendments to the Deemed DCP subject to variations.

Amendment 28 to Randwick Local Environmental Plan 1998 was gazetted on 26 November 2004 and had the effect of rezoning the Prince Henry site to a mix of 2D Residential (Comprehensive Development), 6 Special Uses and 7 Environmental Protection. The amendment also contains height, FSR and landscape area requirements for development within the 2D area of the site.

The Prince Henry Site Development Control Plan (the DCP) was approved by Council on 27 July 2004 and became effective after the gazettal of Amendment 28 to RLEP1998 on 8 December 2004.

A number of development applications have been approved for proposals ranging from the demolition of identified buildings and the decontamination and rehabilitation of land to the erection of buildings for specific social/community bodies and infrastructure, civil and streetscape works,

5. COMMUNITY CONSULTATION:

The proposal was notified as “integrated development” for a period of 30 days in accordance with the EP&A Act 1979 (as amended). A notice was placed in the local newspaper and on-site, and letters were sent to adjoining and adjacent landowners advising of the proposal and inviting comment and submissions. No submissions were received in response to the proposal.

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 Comments

Council’s Heritage Planner advises as follows:

“Background
The subject site is located within the Prince Henry Hospital Heritage Conservation Area and is within the boundaries of the Historic Precinct heritage item under Randwick Local Environmental Plan Amendment No.28. The site and a number of buildings are listed on the State Heritage Register. The site has been the subject of a Conservation Management Plan (CMP), Archaeological Management Plan (AMP) and Heritage Impact Assessment carried out by Godden Mackay Logan (GML) in conjunction with the preparation of a Master Plan for residential use of the former hospital site. Specific Elements Conservation Policies (SECPs) are being prepared progressively for individual buildings and items.

The proposal has been the subject of an informal pre-application meeting including representatives of Council and the NSW Heritage Office. At the meeting, the applicants advised that SECPs were currently being prepared for the Flowers Ward group, Flowers Ward 6 and Hills Theatre 2, and that Heritage Impact Assessments would be prepared addressing both architectural and structural issues.

The Proposal
The current proposal is for external works to Flowers Wards 2, 4, 5 and 6 and Hill Theatre 2, to adapt them for residential use. In detail, the works comprise provision of:

- Conservation and reconstruction works to the buildings are their settings/curtilage
- Verandahs and access to end units.
- Pedestrian entry paths, ramps and steps.
- Garages and driveways at lower ground floor level.

It is noted that the detail of internal works, including floor areas and numbers of bedrooms, associated with the proposed residential use will be the subject of a separate subsequent development application.

Existing structures
The subject buildings are located between Brodie Avenue and Ewing Avenue, to the south of the Prince Henry Hospital Nursing and Medical Museum and the Coast Centre for Seniors. The Flowers Wards (constructed between 1914 and 1918) are identified in the CMP as having exceptional significance, while Hills Theatre 2 (constructed in 1937) is identified as having high significance. The relation to the Flowers Wards, the CMP recommends retention and conservation, preferably in open plan with community use, removal of unsympathetic additions, and urgent maintenance. In relation to Hills Theatre 2, the CMP recommends retention and conservation, removal of unsympathetic additions, possibly
including brick additions at front, and notes that the internal layout suggests residential studios, opening up south light windows.

**Consultation**

As Prince Henry is included on the State Heritage Register (SHR), any development generally needs to be the subject of an Integrated Development Application or a prior application under s60 of the NSW Heritage Act. As the NSW Heritage Office is the consent authority for the application, Council cannot issue approval until the Heritage Office has provided conditions of consent.

Site specific exemptions for the Prince Henry for new single residences and multi-unit residential buildings which comply with the Prince Henry site were gazetted in June 2005. Exemptions do not apply to development within the Historic Precinct however.

**Submission**

The development application has been accompanied by a Heritage Impact Statement prepared by Orwell and Peter Phillips Architects, as well as Specific Elements Conservation Policies for the Flowers Ward group, for Flowers Ward 6, and for Hill Building 2 prepared by Godden Mackay Logan in March 2006. The submission includes architectural drawings for the building prepared by PTW Architects, which contain extensive detail on conservation works to each of the buildings which are part of the proposal. The submission also includes a structural report and drawings prepared by Hughes Truman Engineers, and a landscape report and drawings prepared by Ladd Hudson Architects. The submission also includes a Draft Maintenance Plan for the buildings prepared by Cadence.

**Specific Element Conservation Policies**

The SECPs generally support the levels of significance of the buildings established in the CMP, as well as attributing levels of significance to various components of internal and external fabric.

The SECP for the Flowers Ward Group provides a conservation strategy for the group based on the policies and recommendations of the CMP. The SECP notes that the interior finishes of Flowers Ward 1 (The Prince Henry Hospital and Medical Museum) and Flowers Ward 3 (Coast Centre for Seniors) will be conserved to the greatest extent possible as part of the interpretation of the group, and that at greater degree of modification to the interiors of Flowers Wards 2, 3, 4, 5 and 6 will be required, in accordance with the Master Plan use. The SECP recognises that the subject buildings will remain in residential use in the foreseeable future, with little opportunity for public access.

**Heritage Impact Statement**

The HIS has been carried out in accordance with the Heritage Office model for Statements of Heritage Impact, including consideration of alternatives. The HIS generally notes that the majority of the proposed works comprise preservation and repair of existing significant external fabric, and the reconstruction of missing original elements of the buildings and setting. The HIS notes that the adaptation of the Ward buildings for residential use requires comparatively little alteration to
the exteriors which with their verandahs and size and location of openings have something of a residential character.

The HIS considers that the conservation policies for Flowers Ward 6 are in general applicable to the other unrestored buildings in the Flowers Ward group. The HIS considers that the proposed works are in accordance with conservation policies and their impacts are generally positive. The HIS considers that some changes to the exterior have some adverse impact, including insertion of basement garages and changes to Hill Building 2. The HIS concludes that “the overall heritage impact ... is considered on balance to be acceptable, provided that certain mitigation measures are implemented, and the fabric to be demolished is adequately recorded and interpreted.”

The HIS notes that conceptual planning of the interiors has been carried out and it is probable that each of the Flowers Ward pavilions will be divided internally into four units, two on either side of the central entry; and that the Hill Building will be divided into two units, utilising the roof space. The number of units has been used as a basis for providing modifications to the fabric such as new pathways, driveways, driveways, garages and entries. Increasing the number of units to be accommodated in a future development application could increase the number of such modifications and result in further detrimental impacts.

The HIS has highlighted a number of minor adverse and adverse impacts of the proposed works, and has recommended Management/Mitigation of these heritage impacts as follows:

**Recommendations**

In relation to the detail of specific works which are proposed, the following conditions should be included in any consent:”

### 6.2 Development Engineering Comments

Council’s Development Engineer advises as follows:

An application has been received to carry out works to the external fabric of Flowers Wards No. 2, 4, 5 & 6 and Hills Building No. 2 to suit future residential use. The proposed works include conservation, reconstruction and new building works to allow the buildings to function as residential units as well as driveway access to future basement garages.

It is understood that the application is not seeking approval for construction of basement carparking spaces or any on-grade parking spaces even though they may be shown on the submitted plans.

**Landscape Comments**

There are no threatened or endangered ecological communities, nor will any areas of bushland be affected by the works proposed in this application; however, there are numerous trees of varying size and condition around the perimeter of the individual buildings, with the majority not deemed worthy of retention due to a combination of small size, or being dead or dying.
Along the western edge of Flowers Ward 5, towards its northwest corner, there are two Acacia elata (Sydney Green Wattles) which should be removed due to the amount of deadwood throughout their canopies, and further to the south, another stand of Allocasurina species (She-Oaks) which are not deemed significant specimens and could be removed with minimal impact on the surrounding area.

Beyond the northeast corner of Flowers Ward 5, there is one mature Banksia integrifolia (Coastal Banksia) of about 6 metres in height which appears in good condition, is covered by Council’s Tree Preservation Order and is considered worthy of retention due not only to its size and form, but also its prominence towards the main axis road (Pine Avenue), with protection measures included in this report to ensure this.

Along the western edge of Flowers Ward 6, there is one Grevillea robusta (Silky Oak) of approximately 6 metres in height, which despite being covered by Council’s Tree Preservation Order, is deemed undesirable due to the ability of its seed to be spread by birds and invade areas of bushland. As such, Council recommends its removal to allow more appropriate indigenous stock to be provided in its place.

**Drainage Comments**

Stormwater runoff from the site shall be managed in accordance with the Prince Henry drainage strategy prepared by Connell Wagner. This shall involve all stormwater leaving Lots 43, 52, 53, 57, 58 and 59 being discharged to the new storage pond (located adjacent to Fairway 7 within the Coast golf course), via the underground drainage system.

A sediment/silt arrester pits must be provided within the site prior to stormwater discharging by gravity to the external underground drainage system.

**Traffic Comments**

It is noted that this report does not imply any kind of approval for the proposed residential units and/or basement carparking at the subject site (it is understood they will be addressed in a future separate development application).

Whilst the provision of parking spaces is not proposed as part of this application, it is noted that the statement of environmental effects indicates that the number of parking spaces that will be provided will considerably exceed the DCP and master plan requirements. The development engineer recommends that the parking provisions should be reduced to comply with the master plan/DCP rates.

**Comment:** The variation in proposal’s carparking provision from the Master Plan/Deemed DCP is discussed in Section 10.3.2.4 below.

**Flowers Ward 2 – vehicular access**

It is noted that the submitted plans show vehicular access to Flowers Ward 2 being provided from Curie Avenue, however the plans also show the installation of bollards on this street at the surrounding intersections with vehicular access prohibited. The applicant was contacted in regard to this matter and the Development Engineer was advised that the bollards are to be ‘keyed’ which will allow entry to Curie Avenue for residents of Flowers ward 2.
The Planning Officer shall determine if this arrangement is satisfactory.

Should approval be granted for the combined vehicular and pedestrian roadway, the planning officer should ensure that an appropriate condition regarding Curie Avenue being designed to safely cater for pedestrian and vehicular traffic is included in the approval.

**Comment:** A condition will be applied to ensure access safety on Currie Avenue should approval be granted.

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

### 6.3 Environmental Health Comments

Council’s Environmental Health Officer advises as follows:

“Application has been received for the partial demolition, conservation and reconstruction of the flowers wards. The site is subject to the DA 1188/02 for the demolition of certain structures and remediation of the site. A future DA will be lodged for the construction of residential apartments. Should approval be granted, it is recommended conditions be imposed”

### 6.3 Building Comments

Council’s Building and Development Control Officer advises as follows:

*The Proposal*

The proposal comprises works to the external fabric of Flowers Wards No 2, 4, 5 & 6 and Hill Building No 2, which includes the partial demolition and conservation for future residential apartments.

It is noted that this development application does not include the proposed construction works for the residential units, which will be subject to a separate development application as stated in the proposal.

**BCA Building Classification**

Class - 2 (Residential Units)

**Background**

This proposal includes the conservation and reconstruction that will allow the buildings to function as residential units, which will be the subject of a development application. This proposal seeks the demolition, conservation of particular parts of the Flowers Wards and Hill building for the future development application for the proposed residential units.
It is noted that a fire safety report and a BCA assessment has been carried out and a report submitted with this application which details the buildings future compliance. It is considered that these reports will be used for the future development application when the construction of residential units is anticipated.

Key Issues

Noise:
There is potential for the generation of noise from the proposed development due to the installation of plant and equipment, such as any mechanical exhaust system serving the basement car park. Conditions should be imposed on the consent to address potential noise emissions from the development.

Site Management:
Standard conditions are proposed to be included in the consent to address construction site management issues, such as the location of stock piled material or the storage and disposal of excavated materials, sediment and erosion control, public safety and perimeter safety fencing.

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 is required 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.

RECOMMENDATION:

Should the approval be granted to the application, the following conditions should be included in the development consent.

6.5 Heritage Council of NSW Comments

The Heritage Council advised of its approval of the integrated development application in a letter dated 20 May 2006 in accordance with general terms of approval. The general terms of approval have been included as conditions of consent.

7. MASTER PLANNING REQUIREMENTS

Clause 40A of Randwick LEP requires the preparation and adoption of a master plan for the redevelopment of sites having an area in excess of 4,000 square metres and which must be adopted and in force prior to the grant of development consent.

Following amendments to the Environmental Planning and Assessment Act 1979, gazetted on 16 June 2005, master plans are now designated as Deemed Development Control Plans. Accordingly, the master plan for the Prince Henry Site which was adopted on 27 May 2003, is now a Deemed DCP.

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 Prince Henry Hospital site is zoned Residential 2D, Open Space 6A, and Environmental Protection-Natural Heritage Areas Zone 7 under the Randwick Local Environmental Plan 1998. The subject site is zoned Residential 2D. The proposal is permissible with development consent.

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

Clause 21 Subdivision
Clause 22 Services
Clause 30A Development of Certain Land in Zone No. 2D
Clause 30B Traffic and Transport measures in Zone 2D
Clause 40 Excavation and filling of land
Clause 40A Master plans
Clause 42B Contaminated land
Clause 43 Protection of heritage items, heritage conservation areas and relics

8.2 Relevant State Environmental Planning Policies

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

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy No. 55 – Remediation of Contaminated Land
- State Environmental Planning Policy No. 71 – Coastal Protection

The application of these policies to the proposal is addressed in Section 10.1 below.

9. POLICY CONTROLS

9.1 Prince Henry Development Control Plan

The Prince Henry DCP applies to the developable land within the Prince Henry Site and contains controls that are specifically precinct based. The subject site lies within the Historic Precinct and Section 7.6 of the DCP contains the specific controls applicable to this precinct. The proposals compliance with these standards is assessed in Section 10.1.4.1 below.

Additionally, the DCP states that for the Historic Precinct, “Retained Heritage Buildings limited to existing envelope subject to Specific Element Conservation Policy (SECP) for each building”. A SECP for the Flowers Ward Group (of buildings) and for Flowers Ward 6 specifically was prepared by Godden McKay Logan in May 2003 and March 2006 respectively. The SECP for the Flowers Ward Group provides a conservation strategy for the group based on the policies and recommendations of the CMP. In particular, the SECP notes that the interior finishes of Flowers Ward 1 (The Prince Henry Hospital and
Medical Museum) and Flowers Ward 3 (Coast Centre for Seniors) will be conserved to the greatest extent possible as part of the interpretation of the group, and that at greater degree of modification to the interiors of Flowers Wards 2, 3, 4, 5 and 6 will be required, in accordance with the Master Plan use. The SECP recognises that the subject buildings will remain in residential use in the foreseeable future, with little opportunity for public access. Accordingly, the assessment of the proposed works has been largely based on these SECP criteria as addressed by the Heritage Council of NSW in their comments and by Council’s Heritage Planner in Section 6.1 above.

9.2 Development Control Plan - Parking

The Prince Henry DCP states that parking provision in the subject site is to be in accordance with Council’s DCP – Parking. As part of the reconstruction works in the development application undercroft basement carparking will be provided in Flowers Ward Buildings and Hill Building. This provision is assessed in Section 10.1.4.2 below.

10. ENVIRONMENTAL ASSESSMENT

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

10.1 Statutory Controls – S79C(1)(a)

10.1.1 Section 91 EP&A Act (Integrated Development)

Section 91 of the EP&A Act relates to development that requires development consent and one or more other approvals under relevant nominated Acts. As discussed in Section 6.5 above, the former Prince Henry Hospital site is located within a conservation area, which has been gazetted in the State Heritage Register. The proposed development is not exempt development under the Heritage Act, 1977 and requires the approval of the Heritage Council of NSW and is accordingly integrated development. The application was referred to the Heritage Council and general terms of approval have been received which are addressed by condition of consent should approval be granted.

10.1.2 Randwick Local Environmental Plan 1998

The subject site is zoned part Zone 2(d) Residential D.

Clause 9 of the Randwick LEP 1998 states:

“The Council may grant consent to the carrying out of development on land to which this plan applies only after it has considered the extent to which the proposed development is consistent with the general aims of this plan and the specific objectives of the zone within which the development is proposed.”

The objectives of the Residential 2(d) zone are:

“(a) to allow the comprehensive redevelopment of land for primarily residential and open space purposes, and
(b) to enable development that is not inconsistent with a master plan adopted under clause 40A, and
(c) to allow a range of community facilities to be provided to serve the needs of residents, workers and visitors, and
(d) to enable residential development in a variety of density and housing forms, where such development does not adversely affect the amenity and function of surrounding areas, and

(e) 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

(f) to allow a limited range and scale of non-residential uses, that are compatible with residential amenity on land identified for those uses within a master plan adopted under clause 40A."

The proposed works will occur in the Zone 2(d) area and comprises partial demolition, restoration and reconstruction works to the Flower Wards Buildings and Hill Building No. 2 necessary to allow the redevelopment of these buildings for residential use and its physical linkage to the overall Prince Henry development site. Accordingly, the proposal is consistent with the objectives of the zone. Furthermore, the location of the works is consistent with the master plan/deemed DCP adopted for the Prince Henry site and will facilitate the overall redevelopment of the former Prince Henry Hospital site.

**Clause 21 Subdivision**

Clause 21 states that certain lands (including land referred to in clauses 12A, 18 and 19A being land zoned Residential 2D, Open Space 6A and Environmental Protection 7A respectively) may be sub-divided only with development consent. The proposal will not involve any land sub-division but has been the subject of a previous land subdivision for the southern part of the Prince Henry Site (DA No. 497/2005) that provided for individual superlots for each Flowers Ward building and the Hill Building.

**Clause 22 Services**

Clause 22 states that Council may consent to development only where it is satisfied that, when relevant to the proposed development, adequate facilities for the supply of water and removal or disposal of sewage and drainage are available to that land. The proposal, if approved, will facilitate the provision of future services for the future residential units within the Flowers Ward building and the Hill Building.

**Clause 30A Development of Certain Land in Zone No. 2D**

Clause 30A refers to the maximum FSR, height and landscape standards applicable to land zoned Residential 2D. The proposal is essentially for the partial demolition, restoration and reconstruction of the existing Flowers Ward buildings and the Hill Building. As such, the maximum FSR, height and landscape standards are not directly applicable. In any event, the proposal will not result in any changes to the existing floor area and height of the existing buildings and landscape provisions of the subject site. Nevertheless, any future DAs for the specific dwelling units within these buildings may be subject to this Clause.

**Clause 30B Traffic and Transport measures for Zone 2D**

Clause 30A relates to traffic and transport measures in land zoned residential 2D. Council must not grant consent to development of land within Zone 2D unless it is satisfied that relevant traffic and transport measures are met. The proposal is essentially for external demolition, restoration and reconstruction of the existing subject buildings. As such, the provisions of this Clause are not directly applicable. Nevertheless, the existing buildings
Flowers Ward buildings and the Hill Building that are the subject of the proposed works will be supported by a road network that is consistent with the amended Deemed DCP/Master Plan and links in with previous approved DAs that establish a road network for the overall Prince Henry site.

Clause 40  Excavation and filling of land

Clause 40 of the RLEP contains provisions for undertaking of excavation and filling of land. The proposed works will result in significant impact on the topography of the site as they primarily involve external works to the fabric of the existing Flowers Ward buildings and the Hill Building. Additionally, the proposed basement carparking will be located in the existing undercroft of these buildings and do not involve any major excavations. Accordingly, the proposal is acceptable in relation to the provisions of Clause 40.

Clause 40A  Master plans

A Master Plan for the subject site was adopted by Council on 27 May 2003. The adopted Master Plan is now a Deemed DCP pursuant to amendments to the Environmental Planning and Assessment Act 1979 gazetted on 16 June 2005. On the 18 October 2005, Council adopted amendments to the Deemed DCP subject to variations. These amendments included the provision of an alternative form of residential development (that is, detached dwelling allotments) in Lot 75 (the subject site) to that approved in the originally adopted Master Plan. The proposal is consistent with the amended Deemed DCP/Master Plan in terms of the layout, configuration and location of roads and allotments.

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

Clause 43 of the RLEP relates to protection of heritage items and heritage conservation areas. The proposal involves partial demolition, conservation and reconstruction works to heritage items comprising the Flowers Ward 2, 4, 5 and 6 and Hill Building No. 2. In addition, the subject site lies within the Prince Henry Site which is located within a conservation area and which has been gazetted in the State Heritage Register. The site has been the subject of a Conservation Management Plan (CMP), Archaeological Management Plan (AMP).

The site is also the subject of a Specific Elements Conservation Policies (SECPs) for the Flowers Ward group, for Flowers Ward 6, and for Hill Building 2 prepared by Godden Mackay Logan in March 2006.

A Heritage Impact Assessment (HIA) has been prepared and lodged with the application which has been assessed by Council’s Heritage Planner. The HIA generally considers that the proposed works would not have any physical (or visual) impacts upon any built, landscape or geological elements of heritage significance or on any Aboriginal or historical archaeological objects or zones of sensitivity subject to a number of recommended strategies to protect the character of the locality. Subject to the adoption of these recommendations, the HIA considers that the proposed works comply with the heritage objectives and provisions of the LEP for the site and are generally consistent with the CMP and AMP. Council’s heritage planner has assessed the HIA and essentially endorses the assessment and recommendations contained in the HIA subject to appropriate conditions (see Section 10.3.2.2 below).
The proposal has also been referred to the NSW Heritage Council as an integrated development and General Terms of Approval have been received.

10.1.3 State Environmental Planning Policies

SEPP No.19 – Bushland in Urban Areas

This SEPP requires the consent authority to consider the potential impact of the development on, and the proposed management of, bushland when determining development applications within or adjacent to land zoned or reserve for public open space. The subject site does not contain any areas that would meet the definition of bushland under SEPP No. 19. The closest land containing Eastern Suburbs Banksia Scrub is located approximately 120 m to the south-west in Lot 66, significantly far away from the subject site to have any major effect in terms of overshadowing or construction impacts. In any event, this bushland will be protected and managed in accordance with an approved Bushland Management Plan prepared by Manidis Roberts as part of DA No. 1102/2003. This bushland management strategy also outlines the management processes for regeneration of native vegetation in Lot 66.

SEPP 55 – Remediation of Contaminated Land

This SEPP provides a state wide practice for the remediation of contaminated land. Sections of the former Prince Henry Hospital site are currently being remediated in accordance with SEPP No. 55 and the Contaminated Land Management Act 1997. Development Consent No. 1188/02 for the demolition of buildings and the remediation of the Prince Henry site was issued on 28 February 2003. In relation to the subject site, a condition will be applied requiring, amongst other things, that, prior to the proposed works commencing, the applicant submit to Council a Site Audit Statement (SAS) for all of the subject land.

SEPP 71 – Coastal Protection

This SEPP provides for appropriate and suitably located development within the coastal zone of NSW through legislation of the NSW Coastal Policy. Currently, the policy does not specifically apply to the Prince Henry Site.

10.2 Policy Controls – 79C(1)(a)

10.2.1 Prince Henry Development Control Plan

The proposal has been assessed in relation to the Prince Henry Development Control Plan. The DCP provides a framework for the redevelopment of the Prince Henry site containing performance criteria and controls to guide builtform, provide environmental and amenity standards, and give appropriate heritage protection for the site both on a precinct-by-precinct basis as well as a general overview.

The following table addresses the relevant controls of the DCP in relation to the proposal:
<table>
<thead>
<tr>
<th>Control</th>
<th>Requirement</th>
<th>Proposal</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.9</td>
<td>Heritage Requirements</td>
<td>The subject site is listed in the State Heritage Register, so that any development will be Integrated Development and an HIS is required for any works, referring to the CMP and AMP, as well as any relevant SECP for Built Elements.</td>
<td>Yes</td>
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<td></td>
<td></td>
<td>An HIS has been prepared by Orwell &amp; Peter Phillips Architects referring to the CMP and AMP, as well as to the SECP for the Flowers Wards Building.</td>
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<tr>
<td>2.6</td>
<td>Heritage Context</td>
<td>The Prince Henry site is listed in the State Heritage Register, and also as Conservation area in the Randwick LEP 1998.</td>
<td>Yes</td>
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<td></td>
<td></td>
<td>The subject site forms part of a Historic Precinct, which is a heritage item in the LEP and includes the Flowers Ward group.</td>
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</tr>
<tr>
<td>4.1</td>
<td>Building Envelope</td>
<td>New buildings must comply with the building envelope requirements in the Built Form Control Table (Figures 6-7)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposal relates to existing heritage buildings whose building envelope will not been increased. The integrity of the Flowers Ward building group and Hills building will be maintained.</td>
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<tr>
<td>4.2</td>
<td>Height</td>
<td>The building/external wall height of proposed buildings must not exceed the maximum heights indicated in the Built Form Control Table (Figures 6-7)</td>
<td>Yes</td>
</tr>
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<td></td>
<td></td>
<td>The proposal relates to existing heritage buildings whose building height will not be altered as a result of the proposed development</td>
<td></td>
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<tr>
<td>4.4</td>
<td>Density</td>
<td>The maximum floor space ratio for a building must not exceed the</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposal will not result in an increase in density, consistent with</td>
<td></td>
</tr>
<tr>
<td>ITEM 5.3</td>
<td>maximum FSR indicated in the Built Form Control Table (Figures 6-7)</td>
<td>Figure 6, which states that retained heritage buildings are limited to existing envelope, subject to a SECP for each building.</td>
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<tr>
<td>4.11 Solar Access</td>
<td>Buildings should be sited and designed to provide adequate daylight and sunlight access in accordance with the performance criteria in Section 4.11 of the DCP.</td>
<td>The proposal will not result in a change in solar access to adjoining properties or the public domain, as the proposed works will be limited to and within the existing building envelope of the Flowers Ward building group and Hills building. Yes</td>
<td></td>
</tr>
<tr>
<td>4.13 Visual Privacy</td>
<td>Residents should have a reasonable level of privacy without compromising views, outlook, ventilation and solar access in accordance with the performance criteria in Section 4.13 of the DCP.</td>
<td>The proposal will involve minor restoration and alterations to existing openings in the heritage buildings that will not result in loss of privacy. Yes</td>
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</tr>
<tr>
<td>4.18 Materials and Finishes</td>
<td>Materials and finishes selected should be consistent with the site’s coastal location and the heritage significance of the site (with reference to the CMP and relevant SECP).</td>
<td>The proposal will incorporate materials, which are sympathetic to the existing building and surrounding Flowers Ward group, consistent with the recommendations contained in the SECPs and CMP. Yes</td>
<td></td>
</tr>
<tr>
<td>Section 5 - Sustainable Design</td>
<td>Developments must comply with ESD principles as listed in Section 5 of the DCP.</td>
<td>The proposed works will enable the creation of a sustainable neighbourhood in line with the provisions of Section Yes</td>
<td></td>
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</tbody>
</table>
### 5. **Sustainable Design** of the DCP

by integrating new and existing development in the overall Prince Henry Site while conserving the natural, ecological and heritage significance of the site.

| **6.0. FACILITIES AND ACCESS** | The subject site will utilise the existing infrastructure available for the site. Future Waste will be located in the basement (sub-floor area) of Hill Building No.2 and the undercroft of the Flowers Wards Buildings, which will satisfy Council and BCA requirements. In addition, the proposal is also consistent with the requirements of Section 6 - Facilities and Access of the DCP in that it will provide for the provision of pedestrian and cycle access, vehicle access and parking, driveway location.

An Accessibility Report has been prepared for the application and the proposal will be acceptable in relation to disabled access as discussed in Section 10.3.2.4 | Yes |

| **7.0 PRECINCT CONTROLS** | This section contains | The proposal will conserve significant | Yes |
10.2.2 Development Control Plan – Parking

The proposal will provide for 8 parking spaces for each Flowers Ward Building in the form of undercroft garages below which will yield a total of 36 off-street carparking spaces. Visitor parking will be provided at grade amounting to 10 spaces under the subject DA. Accordingly, the proposal will have a total of 46 carspaces.

The applicant advises that the carparking provision will adequately meet the demand of the future residential development in the Flowers Ward Buildings and Hill Building. Having regard to the heritage constraints of these existing buildings, the applicant advises that the adaptive re-use of these buildings will yield an optimal number of 18 dwelling units comprising of 4 dwelling units per Flowers Ward building and 2 for the Hill Building. Based on the DCP rate of 1.5 spaces per 3 bedroom unit and a visitor parking rate of 1 space per 4 dwellings, for a minimum 18 dwelling units, the carparking requirement will be 27 resident spaces and 5 visitor spaces which will be adequately met by the proposed carparking provision as detailed in the preceding paragraph.

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

10.3.1 Natural Environmental Impacts

A Bushland Management Plan for the Prince Henry site was adopted as part of the approval for DA1102/2004 (Stage 3 Infrastructure and streetscape works adjacent to the northern boundary of the Prince Henry site). This plan shows that the closest area of mapped bushland containing Eastern Suburbs Banksia Scrub within the Prince Henry site is located approximately 120m away to the south-west of the subject site. Given this distance, the proposed works will be too remote to affect this bushland by way of overshadowing and/or physical works.

Overall, subject to compliance with the proposed conditions of consent, there should be no adverse impact on items of natural, archaeological, environmental or physical heritage on site as discussed in the body of this report. The subject site is currently in the process of remediation to facilitate the redevelopment of the site, the works will have a positive end benefit.

10.3.2 Built Environmental Impacts

10.3.2.1 Urban Design

The proposal essentially is for the conservation and adaptive re-use of the former Flowers Wards No.2, 4, 5&6 and Hill Building No.2. All changes will involve external works...
with no changes in the existing building envelope so that there will be no increase in floor area of the existing buildings.

The proposed works also will not result in changes to building height. The proposed new works to Flowers Wards No.2, 4, 5 & 6 and Hill Building No.2 will be contained within the existing building envelope (including roof lines) in accordance with the LEP. The building footprint of Hill Building No.2 will not be increased, and the maximum height will remain unchanged.

The Heritage Impact Statement prepared by Orwell & Peter Phillips Architects indicates that significant building fabric will be retained and new materials will be selected in accordance with the guidelines contained in the SECP for Flowers Wards No.2, 4, 5&6 and Hill Building No.2. An External Finished Schedule has been prepared as part of the application.

The proposal will involve the construction of new entry paths and driveways to Flowers Ward Buildings. These new elements in the landscaped curtilage of the Flowers Ward Buildings will be treated to ensure compatibility with the historic landscape around the subject buildings, including the hourglass footpath to the eastern building entries, as well as open turfed areas with specimen tree planting. Specifically, the new entry paths to Flowers Ward Nos.4, 5 and 6 will be distinguished from the original central entry by not having kerbs. They will be simple washed concrete planes, and the new driveways to Flowers Ward No.2, 4, 5 and 6 will be similarly simple washed concrete planes without kerbs. For Flowers Ward Nos. 5 & 6, the driveways will slope down from the adjacent roads to a level approximately 400mm (TBC) below the existing undercroft level. In addition, the ‘grass planes’ adjacent to these driveways will be sculpted around the driveway cuttings to minimise any ‘warping’ of the ‘grass planes’.

Future garbage bin storage for the subject Flowers Wards will be contained within the undercroft garage areas while for the Hill Building No.2, the future storage will be contained within the existing basement area.

10.3.2.2 Heritage Impacts

The applicant advises in the Heritage Impact Statement that the proposed works consists primarily of conservation works to remove intrusive elements, conserve surviving original fabric and reconstruct missing original elements that enhance cultural significance. Works that do not fall into this category, comprising of additional and/or altered elements to the existing buildings, are comparatively less extensive but potentially more significant in impacts. The design impact of the additional and altered elements has been assessed by the Heritage Council and Council’s Heritage Planner both of whom consider the proposed additional and altered elements to be acceptable subject to appropriate conditions. Specifically, the additional/altered elements are assessed as follows:

Undercroft basement parking

- Provision of one driveway either side of the central (eastern) entry to all the Flowers Ward buildings to give access to a garage area below floor level. Each driveway will be 3.5m wide with a garage door opening 4.4m wide to give single access to future undercroft parking for two (2) cars per unit. The parking
area will be shared and will provide separate internal access to the units located directly above; and,

- Installation of sliding garage doors, timber framed with louvres similar to the detailing of the existing timber louvered doors on the buildings.

Comment: The installation of garage openings potentially will have a significant impact on the visual presentation of the Flowers Wards Buildings and this is recognised in the Heritage Impact Statement (HIS) prepared by Orwell and Peter Phillips Architect. It should be noted that the provision of basement entrances and driveways into the subject Flowers Wards Buildings were adopted in the amended Master Plan /Deemed DCP. Furthermore, the SECP provides certain measures to be followed for these works. Accordingly, the assessment of the entrances and opening has been focussed on the detail of the openings for these lower ground level parking to Flowers Ward buildings 2, 4, 5 and 6 by way of refinement to reduce the reveal depth and retain a brickwork surround to the proposed openings. Council’s heritage planner has included a condition requiring this should approval be granted. In addition, the Heritage Council has required a condition to be applied requiring details of the external materials and colours should approval be granted for the application.

Access to Flowers Wards No.2, 4, 5 & 6

- Provision of access to the northernmost and southernmost units of Flowers Ward 2 from the street will be via the eastern stairs. The existing stairs will be demolished and rebuilt with an extended landing, which will allow access from the landing to the verandah. Accordingly, the portion of balustrade adjacent to the landing will not be reconstructed so that access is possible.

- Provision of access to the northernmost and southernmost units of Flowers Ward 4, 5 & 6 will be from the west. Therefore, the portion of cast concrete balustrade at the far ends of each verandah will not be reconstructed in order to make this access possible.

Comment: The HIS recognises potential minor interpretive impacts as a result of this work, but considers that with appropriate interpretation, the proposed modification is acceptable. Council’s Heritage Planner has included a condition requiring appropriate interpretation of the original end stairs to Flowers Ward building 2 to be provided in the form of a straight joint or groove to indicate the location of the original stairs.

Verandah Screens and Blinds – All Buildings

- Construction of an operable glazed screen wall behind the line of the reconstructed archway openings of the eastern “ablution blocks”, in order to minimise the number of partitions within the main ward spaces of the Flowers Ward pavilions. The screen wall will have fine steel frames, the setback allowing a small Juliet balcony to be provided.

- Installation of a contemporary version of the timber frame and canvas blinds, which sat between and slightly behind the concrete verandah columns. The blind fabric will be a synthetic weave, light cream colour equal to Reflex Soltis.
86, in a cream colour, while the support system will consist of fine stainless steel guides.

- Installation of a blind similar to the abovementioned to be located across the verandah in order to provide privacy between the verandah spaces of the units.
- Installation of a low level screen (equal to the height of the concrete balustrade) at the main entry using the same fabric and stainless steel frame to delineate the private verandah spaces from the main entry.

**Comment:** The HIS recognises potential interpretive impacts as a result of this work, raising concerns that if this work, including demolitions of walls and construction of new screens is carried before interior plans are finalised, that the opportunity for a more desirable conservation outcome will be removed. Accordingly, Council’s Heritage Planner has required a condition be applied should approval be granted indicating that approval would be given for the reinstatement of the arched openings to the eastern corner wings to Flowers Ward buildings 2, 4, 5 and 6. However, approval would not be given at this stage for the demolition of the walls surrounding the former drying areas and the construction of new glazed screens. The need for these works is to be considered in conjunction with the plans for the internal works to the buildings, and drawings submitted in conjunction with subsequent development applications.

**Additional/altered elements to Hill Building No. 2**

- Demolition works to remove the metal sheet from the central portion of the flat roof of the building to provide ventilated skylights; create openings in the eastern wall for windows where indicated; and remove the eastern facade of the link to the Flowers Wards.

**Comment:** The HIS recognises potential interpretive impacts as a result of this work, raising concerns that the loss of all of the original ceiling structure and lining in the centre of the roof would diminish the character and significance of the attic space. Council’s Heritage Planner has included a condition should approval be given requiring all the principle structural members and a substantial amount of joists and boarding are to be retained in any adaptation of the attic ceiling of Hill Building 2.

- Addition of new fenestration including; new windows on the east face; steel framed combined skylight – window units on the south face as an interpretation of the early operating theatre windows; side doors to the proposed decks similar to that documented for the Flowers Ward No.3 and Hill Building No. 2 under DA1015/04, as lodged with Council in December 2004. These new openings are designed as fine copper framed elements to distinguish them from the existing painted timber fenestration;

**Comment:** The HIS recognises potential interpretive impacts as a result of this work, raising concerns that none of the openings will retain their original proportions, nor adequately interpret the original openings, going beyond the recommendations in the SECP. Council’s Heritage Planner has included a condition should approval be given requiring the western window opening to Hill Building 2 is to be retained as existing and the narrow...
windows to either side of the central opening are to be retained in their entirety.

- Provision of a new glazed wall along the eastern wall of the link to Hill Building No. 2 to permit greater flexibility in the planning of the building for future residential use. As this part of Hill Building No. 2 (HB2) is largely hidden from view by the north-eastern projection of the buildings and south-eastern corner (ablation block) of Flowers Ward No.5, the link will not be visually intrusive.

- Rebuilding of the eastern wall of the link between Flowers Ward No. 5&6 and Hill Building No.2 as a steel framed, glazed link similar to that proposed for the link between Flowers Ward No.3&4 and Hill Building No.1.

**Comment:** The HIS recognises potential interpretive impacts as a result of this work, raising concerns that works does not appear to be essential, is not readily reversible, will effect an original and significant façade and is contrary to conservation policies. Council’s Heritage Planner has included a condition should approval be given requiring approval is not given for the demolition of the original rear stair to the former rear entrance of Hill Building 2 and the construction of a new glazed screen. The need for these works is to be re-considered in conjunction with the plans for the internal works to the buildings.

- Addition of timber decks with steel flat bar balustrades are proposed between Flowers Ward No.5 and Hill Building No.2, Flowers Ward No.6 and Hill Building No.2.

**Comment:** The HIS recognises potential interpretive impacts as a result of this work, noting that SECP policies generally prohibit the mounting of new structures on the external envelope of any of the building in the Flowers Ward group. The HIS considers however that these spaces are on the less visually important eastern side of the building and are largely shielded form view. Council’s Heritage Planner has included a condition should approval be given requiring the proposed new decks on the eastern side of the link corridor in Hill Building 2 to be designed and constructed without the enclosing brick wall underneath, so that the original alignment of the eastern wall of the link remains visible.

- Alteration to openings on north and east sides of Hill Building 2 and construction of new basement entrance

**Comment:** The HIS recognises potential minor interpretive impacts as a result of this work, raising concerns that the detailing of the stairs and gate and the doors to the waste bin storage area relate to the detailing of the Ward buildings (1914 -1918) rather than to the Hills buildings (1930s). Council’s Heritage Planner has included a condition should approval be given requiring the design of the stairs and gate and the doors to the waste bin storage area to Hill Building 2 to be modified to reflect the 1930s character of the original operating theatre building or to have a modern character that distinguishes them as alterations to the original.
10.3.2.3 Sunlight, Privacy and Views

The proposal primarily is for demolition, conservation and restoration works for the adaptive re-use of the existing Flowers Wards No.2, 4, 5&6 and Hill Building No.2 and will not result in any new builtform so that there will be no immediate impact in terms of overshadowing or overlooking from the proposed development. Additionally, the proposal will not result in any increase in the height or building envelope of these buildings so that surrounding views will not be affected.

10.3.2.4 Parking, traffic and access

The proposal will generate 46 carparking spaces which compares with a total of 48 spaces projected for the Flowers Wards No.2, 4, 5&6 under the Master Plan/Deemed DCP. The variation from the Master Plan/Deemed DCP is minor and considered acceptable for the following reason:

- The applicant advises that there is excess carparking available from the adjoining sites to meet this shortfall comprising primarily 3 carparking spaces in the existing Flowers Ward 3 site and 6 carparking spaces in the adjoining lot 43 so that effectively visitor carparking will be available in the vicinity of the proposed development.

- The proposed carparking provision of 46 carspaces will adequately meet the demand arising from the future residential development in the Flowers Ward Buildings and Hill Building, having regard to the heritage constraints of these existing buildings. The applicant advises that the adaptive re-use of these buildings will yield an optimal number of 18 dwelling units comprising of 4 dwelling units per Flowers Ward building and 2 for the Hill Building. Based on the DCP rate of 1.5 spaces per 3 bedroom unit and a visitor parking rate of 1 space per 4 dwellings, for a minimum 18 dwelling units, the carparking requirement will be 27 resident spaces and 5 visitor spaces which will be adequately met by the proposed carparking provision as detailed in the Section 10.2.2 above.

Traffic and parking issues and their impact on the buildings and locale was assessed as part of DA No. 763/2004 for Stage 2 Infrastructure and Streetscape Works for the southern half of the Prince Henry site approved on 26 April 2005. In the assessment and determination of this DA, Council applied stringent requirements for the adaptation of the existing infrastructure to address traffic and parking requirements. The proposal is consistent with and adheres to the access and infrastructure requirements imposed under DA No. 763/2005.

An Accessibility Report has been submitted with the DA which addresses issues relating to disabled access. The report concludes that 10 of the 18 possible units (55%) will be accessible and that the technical design of the ramped access ways and accessible parking provides appropriate access will be in accordance with AS1428.1 (Design for Access and Mobility) whilst balancing the heritage and topographical site constraints. It furthermore states that 55% proportion of the units that will incorporate visitable wheelchair compares favourably with SEPP 65 for new buildings (a minimum 20%). The proposal will be acceptable in relation to disabled access.
10.3.2.5 Ecologically Sustainable Development

The proposed works will be guided by ESD principles primarily in terms of the adaptive re-use of the subject buildings. Further ESD principles will be detailed as part of any future DA for the internal works for the dwelling units including the requirement for a BASIX Certificate and specific sustainability measures such as energy efficient lighting, heating and appliances, water conservation measures and thermal comfort. Overall, the proposal will involve preparation of the subject buildings for future residential uses that will be required to be compatible with the ESD provisions in the adopted Master Plan and DCP for the Prince Henry site.

10.3.2.6 Site Remediation

The applicant advises in the Statement of Environmental Effects that the remediation of the site is currently being conducted under the provisions of a previously approved DA (1188/02). The applicant further advises that all required remediation will be completed suitable for the future residential use when the separate DA for the internal works for residential use of the building will be lodged. Accordingly the proposed development will satisfy this clause. As well, Council’s Environmental Health Services advises that, should approval be granted, a condition will be applied requiring that any remediation of the subject site is to be undertaken in accordance with Development Consent 1188/02 and any subsequent amendment to that consent approved by Council thereafter. Ultimately, the site will be suitable for the development proposed following the remediation under DA 1188/02.

Accordingly, the process for site remediation relevant to the works under this development application is set out in a relevant condition of consent should approval be granted for the application.

10.3.2.7 Social and Economic Impacts – S79C(1)(b)

The proposed works will provide for a more appropriate residential use (i.e., dwelling units) of the site which will be required to be consistent with the Deemed DCP/Master Plan and DCP for the Prince Henry site to ensure appropriate sensitivity to the environmental, heritage and conservation qualities of the locality. The proposal will also promote the principles of urban consolidation through the development of surplus Crown land for residential development in close proximity to urban facilities, services and infrastructure. Overall the proposal presents a positive impact within the site and locality.

10.4 Suitability of the site – S79C(1)(e)

The site has been the subject of extensive planning consideration through the process of adopting the master plan for the Prince Henry Hospital, followed by the rezoning of the site under LEP Amendment No. 28 (which was gazetted on 26 November 2004) and the adoption of a site specific DCP. In preparing the LEP Amendment, Council had considered the suitability of the site for residential use. The proposal is therefore consistent with the rezoning of the subject site.

Development consent has been issued to development application 1188/02 for the demolition of buildings and the remediation of the Prince Henry site. Once remediated the
site will be suitable for the purposes proposed under this development application and the master plan generally.

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

The proposal being integrated development was notified and advertised for a period of 30 days between 5 April 2006 and 10 May 2006. No submission was received by Council during this notification/advertising period.

10.6 The public interest – S79C(1)(e)

The proposed partial demolition, restoration and reconstruction and adaptive re-use of the Flower Wards Buildings and Hill Building at the Prince Henry site that are the subject of the development application will be in the public interest as it will facilitate future residential development in accordance with the Randwick LEP 1998, the Draft Prince Henry DCP and adopted Master Plan.

11. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.

12. CONCLUSION

The proposal is integrated development, requiring approval of the Heritage Council of NSW. The General Terms of Approval from the Council has been received and included as conditions of consent should approval be granted.

The proposed partial demolition, restoration and reconstruction including new additions to the buildings known as Flower Wards 2, 4, 5 and 6 and Hill Building No. 2 at the Prince Henry site will not adversely impact on any item of environmental, archaeological, heritage or cultural significance. Furthermore, there are no existing residential properties adjoining the proposed development and as such no adverse amenity impacts will arise from the proposed demolition.

The proposed works are consistent with the provisions of the master plan adopted for the site, are permissible with consent and satisfy the objectives for the zone, and comply with the relevant provisions of the Prince Henry DCP.

The proposal satisfies the relevant assessment criteria and may be approved subject to appropriate conditions.

RECOMMENDATION:

A. THAT Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No DA/187/2006 for the partial demolition, restoration and reconstruction, including new additional/altered elements, to the buildings known as Flower Wards 2, 4, 5 and 6 and Hill Building No. 2 at the Prince Henry site to provide for future residential development at 1 Coast Hospital Road, Little Bay, subject to the following conditions:-
1. The development must be implemented substantially in accordance with the plans numbered A01 A to A16 A stamped received by Council on 21 March 2006, the application form, and on any supporting information received with the application, except as may be amended by the following conditions and the details approved pursuant to the deferred commencement 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. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.

   In this regard, prior to occupation of the building, an application must be submitted to and approved by Council’s Director of City Planning, together with the required fee, for the allocation of an appropriate street number/s to the development.

3. Power supply and telecommunications cabling to the development shall be underground.

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

5. Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) linked to elevations of the subject buildings are to be submitted to and approved by Council’s Director of City Planning, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the relevant building works.

6. A separate Development Application is required to be submitted to and approved by Council with regard to the internal works associated with the dwelling units within the Flower Wards 2, 4, 5 and 6 and Hill Building No. 2.

7. The finished ground levels external to the building are to be consistent with the development consent No 763/2004 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.

8. 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.

9. The detail/design of the openings for lower ground level parking to Flowers Ward buildings 2, 4, 5 and 6 is to be refined to reduce the reveal depth and retain a brickwork surround to the openings. Details shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.

10. Appropriate interpretation of the original end stairs to Flowers Ward building 2 is to be provided in the form of a straight joint or groove to indicate the location of the
original stairs. Details shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.

11. Approval is given for the reinstatement of the arched openings to the eastern corner wings to Flowers Ward buildings 2, 4, 5 and 6. Approval is not given at this stage for the demolition of the walls surrounding the former drying areas and the construction of new glazed screens. The need for these works is to be considered in conjunction with the plans for the internal works to the buildings, and drawings submitted in conjunction with subsequent development applications related to the internal works.

12. The design of the stairs and gate and the doors to the waste bin storage area to Hill Building 2 is to be modified to reflect the 1930s character of the original operating theatre building or to have a modern character that distinguishes them as alterations to the original. Details shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.

13. The western window opening to Hill Building 2 is to be retained as existing and the narrow windows to either side of the central opening are to be retained in their entirety. Details shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.

14. All the principle structural members and a substantial amount of joists and boarding are to be retained in any adaptation of the attic ceiling of Hill Building. Details shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.

15. Approval is not given for the demolition of the original rear stair to the former rear entrance of Hill Building 2 and the construction of a new glazed screen. The need for these works is to be re-considered in conjunction with the plans for the internal works to the buildings.

16. The proposed new decks on the eastern side of the link corridor in Hill Building 2 are to be designed and constructed without the enclosing brick wall underneath, so that the original alignment of the eastern wall of the link remains visible. Details shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.

17. Careful design of the details of the proposed works is to be carried out, to ensure that original fabric is distinguished from reconstructed and new elements, in accordance with the principals of the CMP and SECPs. Original components are to be reused in reconstruction where possible.

18. Recording of all fabric proposed for alteration or removal, and of any significant fabric uncovered by the works, is to be carried out in accordance with NSW Heritage Office guidelines for archival recording.

19. All significant elements not necessarily affected by the works are to be retained.

20. Careful conservation and repair of all fragile external fabric is to be carried out in conjunction with the proposed works. In particular, advice from a qualified and
experienced materials conservator is to be sought in relation to the sand-lime brickwork.

21. All building works to building elements identified in the SECPs as being significant are to be carried out by appropriately skilled and experienced tradespeople.

22. An architect suitably qualified and experienced in heritage conservation shall be engaged to monitor the works during construction to ensure minimum disturbance to original fabric, and to ensure the use of suitable construction methods, especially for demolition.

23. The Draft Maintenance Plan is to be finalised and submitted to Council prior to commencement of works. A positive covenant shall be created under Section 88E of the Conveyancing Act to ensure that a specific sinking fund is established and allocated for ongoing repair and maintenance works to the heritage buildings. These works are to be in accordance with the Maintenance Plan. Such covenant shall not be revoked or modified without prior approval of Council. The covenant shall be submitted for Council’s approval prior to commencement of works.

24. Interpretative elements are to be installed in conjunction with the proposed works. Details of the interpretation proposal for the site are to be submitted. The interpretation proposal should be prepared in accordance with the SECPs for the Flowers Ward group, for Flowers Ward 6, and for Hill Building 2 prepared by Godden Mackay Logan in March 2006, and with the Interpretation Strategy by Musecape (November 2004) and address the ‘rationale for interpretation’ in section 12.11 of the Interpretation for the relevant sites where appropriate.

The following conditions are applied to meet the requirements of the Heritage Council of NSW:

25. All work shall comply with the following documentation:

b) External DA Landscape Plans LP-01(02) and LP-02(02) dated 17/3/2006 prepared by Ladd Hudson Architects;
c) Heritage Impact Statement dated 20 March 2006 prepared by Orwell & Peter Phillips Architects;
d) Statement of environmental effects dated March 2006 prepared by GSA Planning Pty Ltd;
e) Specific Element Conservation Policy for Flowers Ward 6 and Hill Building 2 dated March 2006, and Flowers Wards Group dated April 2006 prepared by Godden Mackay Logan Pty Ltd;
f) Draft Maintenance Plan prepared by PTW Architects and GML Pty Ltd;
g) Landscape Report dated 17/3/2006 prepared by Ladd Hudson Architects;
h) External finishes schedule prepared by PTW Architects;
i) Preliminary BCA design capability statement dated March 2006 prepared by Philip Chun and Associates;
j) Concept fire safety strategy dated March 2006 prepared by Ove Arup Pty Ltd;
k) Accessibility report dated 8 March 2006 prepared by Accessibility Solutions Pty Ltd; and
l) Structural Report dated March 2006 prepared by Hughes Trueman Pty Ltd.

Nominated Heritage Consultant

26. A heritage consultant shall be nominated for the works. The consultant shall have appropriate qualifications and experience commensurate with the scope of the works. The name and experience of this consultant shall be submitted to the Heritage Office for approval with the section 60 application.

27. The consultant shall advise on the detail design resolution of new elements, undertake on site heritage inductions, inspect removal works, construction of new elements, design and installation of services (to minimise impacts on significant fabric and views) and manage the implementation of the conditions of approval.

28. A report by the consultant (illustrated by works' photographs) shall be submitted to the Heritage Office for approval within 3 months of the completion of the works which describes the work, any impacts/damage and corrective works carried out.

Further Information

29. A colour sample board in accordance with the External Finishes Schedule, and details of the new stairs shall be submitted to and approved by the Heritage Office prior to works commencing.

Conservation Works

30. Information scheduling and describing the proposed conservation works is to be submitted to the Heritage Office for approval prior to the release of the construction certificate:

a) The conservation works are to be implemented in accordance with the Flowers Ward Group Specific Element Conservation Policy (SECP) dated April 2006, Flowers Ward 6 SECP dated March 2006 and Hill Theatre 2 SECP dated March 2006;
b) The conservation works documents are to be prepared by a qualified practitioner and the work inspected by the nominated heritage consultant;
c) The conservation works are to include proposed painting schedules guided by the historic colour scheme analysis and paint scapes prepared in consultation with the nominated heritage consultant;
d) The works are to be undertaken by qualified contractors in accordance with the conditions of approval; and
e) The conservation works are to be completed by practical completion of the construction works.
31. The construction works and installation of services are to be undertaken in accordance with Flowers Ward Group, Flowers Ward 6 and Hill Building 2 Specific Element Conservation Policies (SECPs) dated March and April 2006. In addition:

   a) Significant building elements, features and fragile materials shall be adequately protected during the works from potential damage;
   b) The demolition and removal of materials is to be carried out in such a manner as to prevent runoff, damage to or removal of significant heritage fabric;
   c) Significant fabric and features in the vicinity of the development and wherever construction vehicles are used are to be protected during the works;
   d) Chemical and expanding masonry anchors are not to be used to fix new fixtures existing masonry walls. The use of timber plugs or wood screws is preferred;
   e) The installation of services shall be carried out in such a manner as to minimise damage to or removal of historic fabric and shall not obscure historic features;
   f) Service runs should be grouped and concealed within the new work; and
   g) Proposed service reticulation is to minimise interface with retained significant fabric. Penetrations through heritage fabric should be minimised.

32. A materials scientist with heritage experience is to be engaged and is to undertake on-site testing, chemical analysis to provide advice concerning the stabilisation and repair of the Flowers Wards and Hill Building 2 external brickwork. The advice and proposed remediation methods are to be submitted for approval to the Heritage Office with the section 60 application. The approved advice is to be implemented to arrest the deterioration of the brickwork. Any repair of the brickwork is minimise intervention, loss of original fabric and alteration to its appearance.

Interpretation

33. Any site specific interpretation (proposed themes and media), proposed way signage and street furniture at the Flowers Wards Group site are to be in accordance with the Prince Henry site Interpretation Strategy dated October 2005 prepared by Musecape and submitted to Randwick City Council for approval prior to works commencing.

Aboriginal Archaeology

34. Any ground disturbance and excavation undertaken as part of the proposed works is to be undertaken in consultation with the La Perouse Local Aboriginal Land Council (LPLALC) and, where requested, be subject to LPLALC and archaeological monitoring.

35. Should Aboriginal objects be found, the Department of Environment and Conservation (DEC) is to be informed (as required by the provisions of the NSW National Parks and Wildlife Act 1974). Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under either Section 87 or Section 90 of the National Parks and Wildlife Act may be required before work resumes.

36. Prior to the commencement of the proposed works, all contractors and relevant personnel involved are to be made aware of the existence of Aboriginal
archaeological remains at the Prince Henry site by way of an induction process undertaken by the nominated heritage consultant, and of the possibility that more as yet undiscovered Aboriginal cultural material may exist there.

37. Site contractors are to be advised of their obligations under the National Parks and Wildlife Act 1974 (NSW) and notification procedures in the event that any Aboriginal cultural material is disturbed or exposed during site works.

**Historical Archaeology**

38. If any relics of state significance are uncovered, further excavation must stop and the Heritage Office notified immediately. Further approval will need to be obtained from the NSW Heritage Council as changes to the design and scope of the proposed works may be required depending upon the significance of the relics found.

39. Suitable clauses are to be included in all contractor and subcontractor contracts to ensure that on-site personnel are aware of their obligations and requirements in relation to the relics provisions of the Heritage Act.

40. Prior to the commencement of the proposed works, all those involved are to be made aware by way of an induction of the existence of historical archaeological remains at the Prince Henry site.

**Landscape**

41. Disturbance to existing indigenous vegetation and subsurface deposits should be limited by appropriate protection measures and all efforts should be made to define a specific development impact footprint that should be adhered to throughout the course of the site works.

42. Seed stock indigenous to the site and/or locality (the Prince Henry site, being weed affected, may not be able to provide sufficient stock) should also be used to generate the proposed new landscaping. Written confirmation of this requirement is to be submitted to the Heritage Office for approval prior to the release of the construction certificate.

**Site Protection**

43. Appropriate protective measures shall be included in the Master Program and Site Co-ordination Plan to ensure that significant built and landscape elements are not damaged during the streetscape works. These should be submitted to the Council for approval prior to work commencing. Significant fabric (such as retaining walls, kerbs, gutters and significant paving) in the vicinity of the development and wherever construction vehicles are used should be protected during excavation and construction works.

**S60 application**

44. An application under section 60 of the NSW Heritage Act is be submitted and approved by the NSW Heritage Council prior to work commencing.
b) External DA Landscape Plans LP-01(02) and LP-02(02) dated 17/3/2006 prepared by Ladd Hudson Architects;
c) Heritage Impact Statement dated 20 March 2006 prepared by Orwell & Peter Phillips Architects;
d) Statement of environmental effects dated March 2006 prepared by GSA Planning Pty Ltd;
e) Specific Element Conservation Policy for Flowers Ward 6 and Hill Building 2 dated March 2006, and Flowers Wards Group dated April 2006 prepared by Godden Mackay Logan Pty Ltd;
f) Draft Maintenance Plan prepared by PTW Architects and GML Pty Ltd;
g) Landscape Report dated 17/3/2006 prepared by Ladd Hudson Architects;
h) External finishes schedule prepared by PTW Architects;
i) Preliminary BCA design capability statement dated March 2006 prepared by Philip Chun and Associates;
j) Concept fire safety strategy dated March 2006 prepared by Ove Arup Pty Ltd;
k) Accessibility report dated 8 March 2006 prepared by Accessibility Solutions Pty Ltd; and
l) Structural Report dated March 2006 prepared by Hughes Trueman Pty Ltd.

The following conditions are applied to maintain reasonable levels of environmental amenity and public health safety.

45. The land must be remediated in accordance with Council's Development Consent 1188/02 (as amended). If not already furnished to Council, copies of the relevant Site Audit Statements for the relevant land must be provided to the Council prior to any building works commencing.

46. No infrastructure or construction works are permitted to be undertaken unless the subject land has been remediated in accordance with consent 1188/02 (as amended) and all contamination and cross contamination issues have been addressed and the land is the subject of either a Site Audit Statement or a Clearance Instruction.

47. The applicant is to engage the services of a suitably qualified environmental consultant to respond to enquiries and complaints made by the Community or Council in relation to contamination, remediation and construction site management matters.

48. A specific contact number is to be made available for such enquiries and complaints (including an after hours emergency contact number) and a complaints register is to be maintained to record all such enquiries, complaints and actions taken in response to same, which is to be made available to Council officers upon request.

49. The works shall not give rise to environmental pollution or public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 or NSW Occupational Health and Safety Act 2000 and Regulations there under.
50. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council immediately.

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

51. The applicant shall:

a) Construct concrete vehicular crossings and laybacks at the kerb opposite the proposed vehicular entrances to Flowers Ward 2 in Curie Avenue;

b) Construct concrete vehicular crossings and laybacks at the kerb opposite the proposed vehicular entrances to Flowers Ward 4 on the western side of Darwin Avenue (PD4);

c) Construct concrete vehicular crossings and laybacks at the kerb opposite the proposed vehicular entrances to Flowers Ward 6 in Ewing Avenue (EX6);

d) Construct concrete vehicular crossings and laybacks at the kerb opposite the proposed vehicular entrances to Flowers Ward 5 in Ewing Avenue (EX6);

e) Construct/reconstruct pedestrian ramps, crossings and pathways as detailed on the submitted plans.

Note: Should any of the new vehicular or pedestrian crossings be located over any existing kerb inlet pits, the applicant will be required to:

i) Convert the existing kerb inlet pit to a grated inlet pit in the new layback; and
ii) Construct a new kerb inlet pit immediately adjacent to the new crossing to compensate for the lost inlet capacity.

All civil works are to be in accordance with Australian Standard specifications for driveways, and in general accordance with Randwick City Council’s ‘Standard Kerb and Gutter and Vehicular Crossing Detail’ (Drawing SD4) and Council’s ‘Standard DGGP with Extended Kerb Inlet Detail’ (Drawing SD7a).

52. All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Certifying Authority prior to the release of the construction certificate showing compliance with this condition.

53. Details of how vehicular traffic flows accessing Flower Ward 2 along Currie Avenue will be managed in relation to pedestrian use of Currie Avenue shall be submitted and approved by Council prior to a Construction Certificate being issued for the development. These details are to be consistent with requirements for shared zone as specified by the relevant Roads and Traffic Authority standards.

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:
54. 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:

- **Flowers Ward 2:**
  - Brodie Avenue (EX5) - Match the level at the back of the approved footpath.
  - Curie Avenue – At the levels shown on the submitted Flower Ward 2 Plan (A02 A dated 17/03/2006).

- **Flowers Ward 4:**
  - Curie Avenue – At the levels shown on the submitted Flower Ward 4 Plan (A05 A dated 17/03/2006).
  - Darwin Ave (PD4) – At the levels shown on the submitted Flower Ward 4 Plan (A05 A dated 17/03/2006).

- **Flowers Wards 5 & 6/Hills Building 2:**
  - Darwin Ave (PD4) - Match the level at the back of the approved footpath.
  - Ewing Ave (EX6) - Match the level at the back of the approved footpath.

Any enquiries regarding this matter should be directed to Council’s Development Engineers on 9399 0923.

55. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate.

56. The top of footings of any structures constructed on the boundary alignment must be at least 150mm below the alignment level as specified for the vehicular access.

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

57. 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.

58. 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.

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

60. 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 to determine whether or not an electricity substation is required for the development.

Drainage Conditions

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

61. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage (for Lots 52, 53, 57, 58 & 59) shall be submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the certifying authority. The drawings and details shall include the following information:

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

   b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connections into the underground drainage system.

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

   d) Proposed finished surface levels and internal driveways which are to be related to Council's design alignment levels.

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

62. All stormwater run-off naturally draining to Lots 52, 53, 57, 58 & 59 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.

63. All site stormwater leaving Lots 52, 53, 57, 58 & 59 must be discharged to the new storage pond (located adjacent to Fairway 7 within the Coast golf course), via the underground drainage system in accordance with the Prince Henry drainage strategy prepared by Connell Wagner.

64. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
65. Where required, a reflux valve shall be provided (within the site) over any pipelines discharging from the site to ensure that stormwater from the underground drainage system does not surcharge back into the site stormwater system.

66. A sediment/silt arrester pit must be provided within the site prior to stormwater being discharging from the site.

The sediment/silt arrester pit shall be constructed in accordance with the following requirements:

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

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

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

67. Prior to the issuing of an occupation certificate, the applicant shall submit to Council a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced Hydraulic Engineer. The works-as-executed drainage plan shall be to the satisfaction of the Principal Certifying Authority (PCA) and shall include the following details:

- Finished site contours at 0.2 metre intervals (over Lots 52, 53, 57, 58 & 59);
- The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes.

68. Prior to the issuing of an occupation certificate, the applicant shall submit to the Principal Certifying Authority (PCA) and Council certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and
construction of the stormwater drainage system complies with the conditions of development consent. The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the PCA.

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

69. Landscaping at the site shall be installed substantially in accordance with the landscape plans prepared by Ladd Hudson Architects, drawing number LP-01, project number 354, revision 02, dated 17.03.06, and stamped received at Council on 21st March 2006, prior to the issue of a final occupation certificate. All proposed planting shall be in accordance with the objectives and criteria contained within point 4.7 and 4.8 of the Prince Henry DCP, dated 8th December 2004, for the Historical Precinct.

70. 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.

71. The following trees shall be removed as part of the proposed works:

   c. Two *Acacia elata* (Sydney Green Wattles) along the western edge of Flowers Ward 5, towards its northwest corner, and further to the south, a stand of *Allocasurina species* (She-Oaks).

   d. One *Grevillea robusta* (Silky Oak) along the western edge of Flowers Ward 6.

Tree Protection Measures

72. In order to ensure retention of the Banksia integrifolia (Coastal Banksia) beyond the northwest corner of Flowers Ward 5, the following measures are to be employed, with approval granted for the removal of all other vegetation in this area which is directly affected by this application:

   a. All detailed documentation submitted for the construction certificate application shall show the retention of these trees with the position of their trunks and full diameter of their canopies clearly shown on all drawings.

   b. The trees are to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing which shall be installed a minimum distance of 2.5 metres from the outside edge of their trunks to completely enclose each tree/stand of trees.

   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 and
no stockpiling of soil or rubble.

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

73. A refundable deposit in the form of cash, cheque for the amount of $2,000.00 shall be lodged with Council prior to a construction certificate being issued for the proposed development to ensure the implementation and maintenance of the landscape works in accordance with the approved landscape documentation.

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

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

c. To facilitate release of the bond, the applicant shall provide Council with certification from a suitably qualified Landscape Architect (who is eligible for membership with the Australian Institute of Landscape Architects), confirming that they have inspected the site 12 months after the date of issue of the occupation certificate, and that the landscape works have been successfully implemented and maintained in accordance with the approved landscape documentation.

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

74. 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.

75. 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.

76. 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

77. 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.

78. 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.

79. 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”.

80. In accordance with clause 98 of the Environmental Planning & 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 provisions 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 principal building contractor and compliance with the provisions of the Home Building Act 1989 (i.e. Details of the principal licensed building contractor and a copy of the Certificate of Insurance) are to be submitted to Council prior to the commencement of works, with the notice of appointment of the PCA / notice of intention to commence building work.

81. 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 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:

82. 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.

83. Any demolition works involving asbestos products are to be carried out in accordance with relevant WorkCover New South Wales requirements, guidelines and codes of practice.

84. 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.

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

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

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

86. 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 Health, Building & Regulatory Services.

87. Noise and vibration emissions during the construction or demolition 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.

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

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

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

89. 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

Details of the proposed sediment control measures are to be detailed in a site management plan and must be submitted to and approved by the principal certifying authority prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy is to be maintained on-site and be made available to Council officers upon request.

Details of proposed sediment and erosion control measures shall include: a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

90. 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.

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.
91. 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.

92. 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.

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.

Temporary fences or hoardings 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.

93. 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 or 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.

ADVISORY MATTERS:

1. 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

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.

You are advised to ensure that the development is not inconsistent with Council's consent and if necessary consult with Council’s Building Certification Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

2. The applicant/owner is advised that this approval does not guarantee compliance with the provisions of the Disability Discrimination Act 1992 and the applicant should therefore consider their liability under the Act. In this regard, the applicant is advised that compliance with the requirements of the Building Code of Australia and Australian Standard 1428.1 - Design for Access and Mobility does not necessarily satisfy the objectives of the Disability Discrimination Act 1992.

The applicant/owner is requested to give consideration to providing access and facilities for people with disabilities in accordance with Australian Standard 1428 Parts 1, 2, 3 and 4 - Design for Access and Mobility, which may be necessary to satisfy the objectives of the Disability Discrimination Act 1992.

ATTACHMENT/S:

Nil

................................................. ..................................................  
sima truuvert                           david ongkili  
Director, City Planning               Environmental Planning Officer
Development Application Report

REPORT BY: DIRECTOR, CITY PLANNING

DATE: 11 May, 2006  FILE NO: DA/0749/2005'A'

PROPOSAL: Section 96(2) modification to delete condition 6 which required removal of the proposed new carport to the front of the dwelling

PROPERTY: 30 Kingsford Street, Maroubra

WARD: Central Ward

APPLICANT: Mr Apichat Ku

OWNER: Mr A Ku and Mrs PF Ku

Subject Site

Submissions received

\[NORTH\]

LOCALITY PLAN
1. EXECUTIVE SUMMARY

The application has been referred to the Health, Building and Planning Committee for determination at the request of Councillors Anthony Andrews, Paul Tracey, Alan White.

The applicant is seeking approval to delete Condition 6 of the existing development approval (for alterations and first floor additions to the existing dwelling). Condition 6 required removal of the proposed carport at the front of the dwelling from the development. The estimated cost for the whole of the works (ie: the approved alterations and additions, including the new carport structure) is $224,500.

The application was lodged on 24 March 2006. Notification did not result in any submissions, however the proposal does not meet the driveway and garaging controls stipulated under the Dwelling Houses and Attached Dual Occupancies DCP and does not meet the character and streetscape objectives of the DCP. There is little precedent for carports and parking structures forward of the building line in Kingsford Street.

The recommendation is for refusal.

2. THE PROPOSAL

The applicant proposes to delete condition 6 of development consent 749/2005. Condition 6 reads as follows:

1. The proposed carport including the new concrete slab are to be deleted as it does not satisfy the relevant objectives, performance requirements and preferred solutions of Part 4.7 Garages, Carports and Driveways of the Development Control Plan for Dwelling Houses and Attached Dual Occupancies in that the structure being sited at the front of the dwelling will detract from the appearance of the dwelling and the symmetrical relationship with its adjoining semi-detached dwelling house at 32 Kingsford Street, and will result in a visually obtrusive structure in the streetscape. Details of compliance are to be provided in the construction certificate plans.

The applicant has argued that the condition to remove the carport and extension to the existing hardstand car space on the site is unreasonable as the carport structure is consistent with many similar carports in the area.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is located on the northern side of Kingsford Street between Cobham and Hinkler Streets in Maroubra. The site forms half of a pair of asymmetrical single storey semi-detached dwellings with No. 32 Kingsford Street. Construction is currently underway on the works approved under DA 749/2005 including the first floor addition to the existing dwelling. The site has a frontage width of 9.98m, a side boundary depth of 32.78m and has an overall site area of 322.5m². Neighbouring the property to the north-west is a single storey dwelling, to the south-east of No. 32 is a part one part two storey semi-detached dwelling and to the rear are the rear yard...
areas of Nos. 31 and 33 Wild Street. The surrounding area is residential in nature and contains a mixture of free standing and semi detached dwellings.

4. SITE HISTORY

  a. APPLICATION HISTORY

This application was lodged on 24 March, 2006 and seeks to modify consent 749/2005 which was approved subject to conditions under delegated authority on 2 December 2005. After undertaking a preliminary assessment of the application, the applicant was advised that Council officers could not support removal of condition 6 and of Council’s delegations policy with regard to Council meetings. In response to this advice, a call up was received on 10th May 2006 and this report is prepared in accordance with this request.

5. COMMUNITY CONSULTATION:

The proposal has been notified in accordance with Council’s DCP for Public Notification of Development Proposals and Council Plans. No submissions were received in response to this notification. The notification procedures have been checked and have been correctly undertaken.

6. TECHNICAL OFFICERS COMMENTS

The application did not require referral to any internal or external referral bodies.

7. MASTER PLANNING REQUIREMENTS

As the site is less than 4,000m² in area there is no requirement for a master plan under clause 40A of RLEP98.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

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

- Randwick Local Environmental Plan 1998
- Dwelling Houses and Attached Dual Occupancies Development Control Plan
- DCP - Parking

(a) Randwick Local Environmental Plan 1998

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

Clause 10 – Zone 2A (Residential A Zone)

The relevant objective of the 2A zone is:
(a) To maintain the character of established residential areas

The proposed carport is considered to have a negative impact on the established character of Kingsford Street. The majority of dwellings in Kingsford Street have off street parking which is provided behind the front building line with access to the side of the allotment. The subject site has the same opportunity to provide off street parking and therefore should comply with Council’s preferred solutions in this regard. Where parking structures have been approved forward of the building alignment they are lightweight in structure (timber or steel not masonry as proposed in this application) and the property does not have sufficient width to allow for parking behind the front building alignment.

Above: Lightweight carports on Southern side of Kingsford Street allow views through to dwellings behind. This site is too narrow to provide access to parking at the rear.

Above: Garages are set behind the building alignment on the southern side of Kingsford Street.

Above: Garage on northern side of Kingsford Street behind the dwelling alignment.

Above: On Northern side of Kingsford Street predominant pattern is for parking behind the building alignment to the side of existing dwellings.
Above: Parking structures are set well behind the front building line with access along the side boundary.

Above: Carport to the front of property on southern side of Kingsford Street is supported by lightweight timber frame to be less obtrusive in the streetscape and side setback is insufficient to provide for parking behind the front building alignment.

The applicant has indicated several properties in surrounding streets which have previously been granted approval for carports forward of the building line. These properties do not directly contribute to the established visual character in Kingsford Street. Each development application is assessed on its individual merits, however as the applicant has raised concern regarding the consistency of Council’s decisions the following comments are made in respect of precedents in surrounding streets:

**4 & 4A Robey Street: DA 219/1998**

This application was approved by the Land and Environment Court on 19 February 2001 after appeal by the applicant in response to Council’s refusal of the original application as the carport would have an adverse impact on the open form and character of the streetscape, did not satisfy the objectives of the zone and did not satisfy the objectives and preferred solutions of the DCP.

In approving the application, Commissioner Hoffman relied upon evidence given by the applicant that the site was in an area which provided the transition between 4 different planning zones including a business zone. In this area it was noted that there was a wide variety of development and the streetscape was not consistent. It was also noted that the wide verge of Robey Street and existing vegetation mitigated the impact of the parking.

**30 Parer Street: DA 769/2004**

The application for alterations and additions including a new carport to the front of the dwelling was approved on 11 October 2004, subject to Condition 5 which removed the carport from the consent. The condition was imposed as the carport was considered to detract from the appearance of the dwelling and the local streetscape.
A Section 96(2) application was lodged on 26 October 2004 requesting that condition 5 of the consent be deleted and the carport reinstated. The application was considered and approved as the design of the carport was well integrated into the overall design of the dwelling house and was not enclosed. The carport was setback 1 metre from the frontage and there were examples of carport structures forward of the building line in the direct vicinity of the site. In addition, the site was considered to be in an isolated, short section of streetscape where there was not a consistency of building alignment as the block included two corner lots, the subject site and a pair of semi-detached dwellings.

In relation to both of these examples raised by the applicant, the subject site is within the 2A zone and the streetscape is currently very consistent. The approval of a bulky carport structure forward of the building line would disrupt this consistency and the structure would be very visible from the street having a nil setback to the street boundary and no landscaping to the road verge.

8.1 Policy Controls

a. Dwelling Houses and Attached Dual Occupancies Development Control Plan

The DCP for Dwelling Houses and Attached Dual Occupancies states that a proposal is deemed to satisfy the Objectives and Performance requirements of the DCP if it complies with the corresponding Preferred Solutions. Therefore, the tables below assess the proposal against the Preferred Solutions, and where non-compliance results, assessment is made against the relevant Objectives and Performance Requirements.

4.7 Garages, Carports and Driveways

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 Council’s Parking DCP requires 1 space, for dwellings with 2 bedrooms or less, or 2 spaces, for dwellings with 3 bedrooms or more.</td>
<td>The proposed dwelling has parking for 1 car. Does not comply – see assessment below.</td>
</tr>
<tr>
<td>S1 Car parking spaces have a minimum dimension of 5.5m x 2.5m.</td>
<td>The dimensions of the parking space are 2.6 metres x 5.0 metres. Does not comply – see assessment below</td>
</tr>
<tr>
<td>S1 Driveways have minimum width of 3m and are set back at least 1m from the side boundary.</td>
<td>N/A No change to existing non-compliant driveway proposed</td>
</tr>
<tr>
<td>S1 Driveways have a maximum width of 3m at the property boundary.</td>
<td>N/A No change to existing non-compliant driveway proposed</td>
</tr>
<tr>
<td>S1 Driveway gradients should not exceed a maximum of 1 in 8 for the first 5m from street alignment and 1 in 6 thereafter.</td>
<td>N/A No change to existing non-compliant driveway proposed</td>
</tr>
<tr>
<td>S1 With respect to garages and carports to rear lanes these should be set back 1m to improve pedestrian visibility.</td>
<td>Not applicable.</td>
</tr>
</tbody>
</table>
The Objectives and Performance Requirements of the DCP include that car parking and driveways are not visually obtrusive and do not detract from the appearance of the dwelling and the streetscape; and structures are compatible in scale, form, materials and finishes with the associated dwelling.

There is no rear lane access to the property, however there is an opportunity to locate parking behind the front building line as the western side setback to the dwelling is 2.5 metres and meets the minimum width requirement under the DCP. The side setback provides 11 metres of length which could accommodate 2 parking spaces of 5.5m in length, meeting Council’s preferred solutions for parking in terms of dimensions and number of parking spaces. The design of the carport reduces the available length for parking from the existing hardstand space in the front yard to below the minimum requirement under the DCP in that the large masonry columns prevent vehicles from parking alongside the dwelling or ‘nosing in’ to prevent overhang of the front boundary. The majority of dwellings on the northern side of Kingsford Street have garages in the rear yard or behind the front building alignment and the location of the existing driveway on the site indicates that this was the original intention for this dwelling. Given that there is sufficient opportunity to provide 2 roofed parking spaces behind the front building alignment, the proposal to provide a single carport with non-compliant dimensions forward of the building line is not supported. The proposal fails to satisfy the preferred solutions of S1 under the DCP.

The proposal does not meet preferred solution S2 of the DCP that limits the area of frontage occupied by driveways, parking spaces and structures to 35% of the frontage. The site has a frontage of 9.98 metres. The garage has a width of 3.7 metres. This represents 37% of the site frontage and exceeds Council’s requirement of 35%. The width of the carport is increased visually by the design which includes heavy masonry columns 500mm x 500mm and pitched roof. The aim of Council’s preferred solution is to ensure that garages do not dominate or detract from the appearance of the development and the local streetscape. In Kingsford Street, parking structures are not highly visible from the street generally being set back behind the front building line. Where carports do exist they are lightly framed simple structures with generally flat roofs. The visual impact of the proposed carport is considered to have significant impacts on the existing streetscape.

The proposal does not meet the preferred solution or the performance requirements of the DCP with regard to streetscape, visual bulk and scale and as such the development cannot be supported in its current form.

b. Development Control Plan Parking
The proposal does not meet the parking requirement of two spaces. The proposal does not meet the parking layout and dimensions required under the DCP – Parking. The proposal is unsatisfactory with regard to the numeric requirements of the DCP – Parking and is also considered inappropriate with regard to its visual impact on the streetscape.

Two car spaces could be achieved within the side setback of the site by providing uncovered or covered hardstand spaces adjacent to the existing dwelling which should result in a lesser streetscape impact (as allowed under 4.7.2 of the Dwelling Houses and Attached Dual Occupancies DCP). The applicant already has access to off street parking in the existing hardstand space on the site. These options were discussed with the applicant. The applicant argues that the width of 2.5 metres is too narrow to allow for clear entry and exit from parked cars. This argument is not supported as the width of 2.5 metres meets the standard minimum width requirement under the DCP.

9. SECTION 96 AMENDMENT

9.1 Substantially the same

The proposed modification relates to conditions and would result in a development that is substantially the same as that originally applied for under DA 749/2005. The proposed modifications may be considered under section 96 of the Environmental Planning and Assessment Act.

9.2 Consideration of submissions

As indicated in Section 5 of this report, no submissions were received with respect to the proposed modification.

10. ENVIRONMENTAL ASSESSMENT

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

The proposed carport exceeds Council’s preferred solutions under the Dwelling Houses and Attached Dual Occupancies DCP. The proposal represents an undesirable precedent in the area and in particular in Kingsford Street, which currently displays a consistent streetscape. The applicant has not addressed the DCP and has not amended the proposal in response to Council’s original reasons for imposing Condition 6, such that approval would now be warranted.

Council’s officers have maintained dialogue with the applicant throughout the assessment process and indicated alternative solutions (such as a carport on the western side of the existing dwelling) that may result in an appropriate scheme on the site. The applicant has not pursued amendments and as such the proposal is recommended for refusal.

11. FINANCIAL IMPACT STATEMENT
There is no direct financial impact for this matter.

12. CONCLUSION

The proposal does not satisfy the relevant performance requirements and applicable objectives as the carport breaches the predominant building alignment, dominates and detracts from the appearance of the dwelling and the streetscape and is not compatible in bulk and form with the dwelling and the streetscape. Accordingly, the application is recommended for refusal.

RECOMMENDATION:

A. THAT Council as the responsible authority refuse development consent under Section 80 of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. 749/2005'A' for Section 96(2) modification to delete condition 6 which required removal of the proposed new carport to the front of the dwelling at 30 Kingsford Street, Maroubra for the following reasons:-

1. The proposal is inconsistent with objective (a) of the 2A zone under Randwick Local Environmental Plan 1998 in that the construction of a carport forward of the building alignment will negatively impact on the character of the established residential area.

2. The proposal does not meet the relevant preferred design solutions under section 4.7 Garages, carports and driveways under Development Control Plan – Dwelling Houses and Attached Dual Occupancies as the proposed carport occupies 37% of the width of the site, has insufficient dimensions and provides a single carparking space where 2 spaces are required under the DCP.

3. The proposal does not meet the relevant performance requirements under section 4.7 Garages, carport and driveways under Development Control Plan – Dwelling Houses and Attached Dual Occupancies as the proposal detracts from the appearance of the dwelling and the streetscape.

4. The proposed carport will constitute a dominant and visually obtrusive element in the streetscape. In this regard the proposal does not satisfy the relevant performance requirement under section 4.7 Garages, carports and driveways under Development Control Plan – Dwelling Houses and Attached Dual Occupancies.

5. The proposal has not met the relevant objectives under section 4.7 Garages, carports and driveways of the Development Control Plan – Dwelling Houses and Attached Dual Occupancies as the proposal is not compatible in bulk and form with the dwelling and the streetscape, where parking is predominantly behind the front building alignment.

ATTACHMENT/S:

Nil
Development Application Report

REPORT BY: DIRECTOR, CITY PLANNING

DATE: 18 May, 2006  FILE NO: DA/0017/2006

PROPOSAL: New ground floor alterations & new first floor addition including new pool at the rear, raised rear deck, first floor balcony & new garage to the existing semi-detached dwelling

PROPERTY: 7 Kyogle Street, Maroubra

WARD: Central Ward

APPLICANT: P & T Lirantzis

OWNER: P Lirantzis

Submissions received

North

LOCALITY PLAN
1. EXECUTIVE SUMMARY

The application has been referred to the Health, Building and Planning Committee for determination at the request of Councillors Anthony Andrews, Paul Tracey, Alan White. The estimated cost of the works is $375,000.

The application proposes alterations and additions to the existing single storey semi-detached dwelling including new garage, swimming pool, landscaping and a first floor addition.

The main issues for consideration are streetscape impacts on the appearance of the existing pair of semi-detached dwellings. The application was notified resulting in 3 submissions from neighbours. As a result of the neighbour notification and Council’s preliminary assessment, the applicant lodged amended plans on 7 April 2006. The amended plans were re-notified and as a result a single submission was received. This submission raised concerns regarding boundary fencing, proximity of the development to existing structures on the adjoining site to the north and construction damage.

The proposal generally complies with Council’s preferred solutions under the Dwelling Houses and Attached Dual Occupancies DCP and the amended plans are considered to have satisfactorily addressed the concerns of neighbours and Council in relation to the proposal.

The recommendation is for approval subject to conditions.

2. THE PROPOSAL

The applicant proposes to demolish the northern wall of the existing dwelling and extend the rear portion of the ground floor northwards. The extension will provide for living and dining rooms, kitchen laundry and bedroom. A fireplace will be provided to the new living room. Demolition of an existing carport on the northern boundary and construction of a new single garage is also proposed (adjacent a similar structure on the adjoining property) and a shade sail is proposed in front of the garage to provide cover to a second hardstand parking space. A new deck and semi-inground swimming pool are proposed to the rear of the ground floor.

A first floor addition is proposed which will provide for three bedrooms plus study (4th bedroom). The number of bedrooms after construction will be 5. Balconies are proposed to the front and rear of the site at first floor level. Skylights are proposed to the existing roof form to allow light to ground floor rooms. New front fencing and landscaping are proposed to the site as part of the works.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is located on the eastern side of Kyogle Street between Mons Avenue and Glenugie Streets in Maroubra. The site is an irregular shaped block with a street frontage of 8.84 metres and a maximum depth of approximately 32.2 metres. The party wall between the two halves of the semi is also irregular stepping three times along the length of the existing dwelling. The site has a total area of 351.3m².
Currently the site contains a single storey semi-detached dwelling house with a carport on its northern side. The site slopes from west to east (front to rear) 1.35 metres.

Neighbouring the property to the north is 5 Kyogle Street, a semi-detached brick and tile dwelling. Neighbouring the property to the south is 9 Kyogle Street, the other half of the semi-detached dwelling which is the subject of this application. Across Kyogle Street to the west are 1-2 storey freestanding dwelling houses. There are no heritage items or areas in the vicinity of the site.

Figure 1: The subject site and surrounding area

4. SITE HISTORY

a. APPLICATION HISTORY

A search of Council’s records indicates no recent or relevant consents over the subject site. The application was lodged on 16 January 2006. Council officers met with the applicant and on the 24th February to discuss issues arising from the preliminary assessment including the location of the garage to the centre of the existing pair of semis, visual bulk and scale and streetscape issues and concerns in relation to the bulk and scale of the proposed swimming pool and associated fencing. A letter was also sent on 24 February to clarify these issues in writing.

The applicant lodged amended plans on 7 April 2006. The amendments included relocation of the garage, changes to reduce the visibility and bulk of the first floor addition from the street and extension of blade walls to the northern and southern side walls of the first floor balcony to the rear. Changes were also made to reduce the bulk and scale of the swimming pool and the height of these structures as viewed from the adjoining site to the south. These plans were renotified for 14 days and are the subject of this assessment.

5. COMMUNITY CONSULTATION:

The proposal has been notified and advertised in accordance with the DCP for Public Notification of Development Applications and Council Plans. The following submissions were received:
5.1 Objections

1. M & M Cashion, 9 Kyogle Street, Maroubra

- Visual bulk and scale and contemporary form of development will impact on the character of the street and the appearance of the existing pair of semis.

Comment: The amended plans have increased the articulation of the first floor addition and retained the primary roof plane of the existing semis and will not result in significant visual bulk and scale impacts on the street or negative impact on the character of the existing pair of semis.

- Concern regarding the location of the garage on the other side of existing party wall, fire hazard and safety hazard from fumes and amenity impact from increased noise
- Location of garage is inconsistent with established streetscape and Council’s preferred solution to have parking to the side of dwellings.

Comment: Amended plans have moved the garage and addressed these issues.

- Noise from location of pool, kitchen, garage and laundry

Comment: Amended plans have moved the garage. The proposal will be required to meet construction standards of the BCA to minimise noise transmission between the premises and the swimming pool plant and equipment will be subject to standard conditions regarding noise.

- Overlooking from the rear balcony
- Overlooking from the raised decking of the swimming pool

Comment: These issues have been discussed in Section 8.1, below

- Overshadowing to rear yard

Comment: This issue has been discussed in Section 8.1, below

- Excavation of rear yard for pool will damage fencing and landscaping at 9 Kyogle Street.
- Construction damage to 9 Kyogle Street during building works

Comment: A condition requiring a dilapidation report for all buildings and ancillary structures at 9 Kyogle Street has been recommended (see Condition 2).

2. I.J Wild, 11 Kyogle Street, Maroubra

- Proposal is inconsistent with the surrounding development
- Size and design will ruin established character in Kyogle Street

Comment: The amended plans have increased the articulation of the first floor addition and retained the primary roof plane of the semis. The bulk and scale of the
addition is consistent with surrounding first floor additions and two storey dwellings. Compliance with FSR controls and compliance with the wall height control towards the street is further evidence the proposal is reasonable and consistent with the desired future character of the area.

- Siting of garage and high fence to the front of the building would have a detrimental impact on the adjoining property.

**Comment:** Amended plans have moved the garage and addressed these issues.

3. H. O'Shea, 5 Kyogle Street, Maroubra

- Extension appears quite large

**Comment:** The visual bulk and scale of the development has been reduced in the amended plans.

- Overlooking from the rear balcony due to lack of privacy wall.
- Concerned regarding overlooking from front balcony to bedroom at 5 Kyogle Street

**Comment:** The amended plans have addressed this concern by increasing the height of walls to the side of both balconies.

- Noise from the pool pump and use of the pool

**Comment:** Standard conditions regarding noise have been recommended.

- Elevated decking around house and pool will result in overlooking to rear yard of 5 Kyogle Street

**Comment:** This issue has been discussed under Section 8.1, below. As a result of the assessment, Condition 4 requires the pool and deck to be lowered to existing ground level to minimise the potential for overlooking.

- Concerned tree in the back of the rear yard should be retained by the proposal. Also concerned tree at the front of the house where new driveway is being proposed may be lost.

**Comment:** The amended plans have retained the driveway in its current position and will not require removal of street trees. The tree in the rear yard of the subject site is marked for retention and the proposed works should not affect this tree.

The amended plans received on 7 April 2006 were renotified for 14 days concluding on 3 May 2006. In response to this notification period, Council received the following submissions:

1. H.O'Shea, 5 Kyogle Street, Maroubra
- Requests further consultation regarding boundary fencing to north as existing fence is reasonably new and objector doesn’t want to incur any costs as a result of proposal.

**Comment:** The applicant has advised that they intend to meet the full cost of the new fencing. A condition of consent has been recommended to reinforce this commitment.

- Requests a dilapidation report before and after the building works to be confident there will be no damage to the garage, fence or property.

**Comment:** Council’s standard condition regarding dilapidation reports has been recommended.

### 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 Development Engineer

The application has been referred to Council’s Development Engineer and the following comments have been received:

*An amended application has been received for alterations and additions to the existing semi-detached dwelling at the above site.*

**Landscape Comments**

*On Council’s Kyogle Street nature strip, just beyond the southern boundary, there is one Metrosideros excelsa (NZ Xmas Tree) of approximately 3-4 metres which although appearing in average condition, is one of the more established trees in this street, and is covered by Council’s Tree Preservation Order.*

*This species is in decline along the east coast due to a combination of old age and Jewel Beetle attack, which has resulted in the death or removal of large numbers of this species from the Randwick LGA.*

*The amended plans indicate no new work which would affect the stability of the Council street tree (NZ Xmas Tree).*

*In the rear yard, in the northeast corner of the site, there is one Lophostemon confertus (Brush Box) of about 5 metres in height which exhibits a multitrunk habit and provides valuable screening and shading. As this specimen is too small to be covered by the provisions of Council’s Tree Preservation Order and is located away from all proposed works, conditions are not necessary and have not been included in this report.*

*In the rear yard of the adjoining property to the south, 9 Kyogle Street, close to the common boundary, there is one Grevillea robusta (Silky Oak) of approximately 10 metres in height which appears in average condition and is covered by Council’s Tree Preservation Order.*
As it is located on an adjoining property, the applicant has a responsibility to ensure it remains unaffected by this application, with the plans showing an in-ground pool and raised timber deck being constructed along the southern boundary, with excavations associated with the pool being conducted a distance of 2.5 metres off the northwest corner of the trunk, with minor disturbance associated with the decking also anticipated.

This species has a moderate tolerance to construction, and providing the specific protection measures listed in this report are adhered to, a manageable effect on its longevity is expected.

Drainage Comments
The Planning Officer is advised that the submitted drainage plans should not be approved in conjunction with the DA. The applicant is required to submit detailed drainage plans to the certifying authority for approval prior to the issuing of a construction certificate.

Should the application be approved the following conditions shall apply:

Conditions suggested by the Development Engineer have been included in the Recommendation section of this report (see Conditions 41-46).

7. MASTER PLANNING REQUIREMENTS

As the site is less than 4,000m² in area, there are no master planning requirements.

8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

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

- Randwick Local Environmental Plan 1998
- State Environmental Planning Policy No. 55 – Remediation of Land
- Dwelling Houses and Attached Dual Occupancies DCP
- Environmental Planning and Assessment Act 1979 (as amended)
- Building Code of Australia

(a) Randwick Local Environmental Plan 1998

The site is zoned 2(a) under Randwick Local Environmental Plan 1998. The proposal is consistent with the general aims of RLEP 1998 and the specific objectives of the zone in that the proposed activity and built form will enhance and compliment the aesthetic character, environmental qualities and social amenity of the locality.

There are no relevant statutory standards with which the proposed development should achieve compliance.

(b) SEPP 55: Remediation of Land
Clause 7(1)(a) of the SEPP requires Council to consider whether the land is contaminated. Notwithstanding that site investigations have not been carried out, the current and previous use of the site and surrounding sites for residential uses would substantially reduce the possibility of contamination.

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

**Draft Environmental Planning Instruments**

**(a) Draft Local Environmental Plan (LEP) Amendment No. 36**

The Draft LEP Amendment 36 has been exhibited (concluding on 4 November 2005).

Key LEP changes affect the Residential 2A Zone and include:

- Reducing the minimum subdivision size from 900m² to 800m²;
- Increasing minimum frontage requirements for the development of an attached dual occupancy from 12m to 15m; and,
- Increasing minimum landscaped area from 40% to 50% of the site area for attached dual occupancy development.

None of these changes affect the proposed works, being alterations and additions to a single dwelling house. The proposal is satisfactory with regard to the Draft LEP Amendment 36.

**8.1 Policy Controls**

**a. Dwelling Houses and Attached Dual Occupancies DCP**

The DCP for Dwelling Houses and Attached Dual Occupancies states that a proposal is deemed to satisfy the Objectives and Performance requirements of the DCP if it complies with the corresponding Preferred Solutions. Therefore, the tables below assess the proposal against the Preferred Solutions, and where non-compliance results, assessment is made against the relevant Objectives and Performance Requirements.

**Landscaping**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 40% of the total site area is provided as landscaped area.</td>
<td>49% of the site is landscaped area. Complies</td>
</tr>
<tr>
<td>S1 A minimum of 25m² of useable private open space is to be provided.</td>
<td>The rear yard has an area of 50sqm. Complies</td>
</tr>
<tr>
<td>S1 Each dwelling must provide an area of private open space capable of containing a rectangle of minimum dimensions of 3m x 4m with minor changes in level.</td>
<td>The above area has dimensions of 7 x 7 metres. Complies.</td>
</tr>
</tbody>
</table>
**Preferred Solution** | **Assessment**
--- | ---
S1 Private open space in the front yard area is located behind the building line. | The above area is located in the rear yard. Complies.
S6 20% of the total site area has permeable treatment. | 37 % of the site is permeable. Complies.

The Objectives of the DCP with regard to landscaping are that existing significant trees and landscaping are retained and enhanced; dwellings are provided with usable outdoor recreation space; storm water management and the appearance, amenity and energy efficiency of the dwelling is improved through integrated landscape design; and the native wildlife populations are preserved and enhanced through appropriate planting of indigenous vegetation.

The Performance Requirements are that the size and dimensions of landscaping suit the needs of the occupants; location and design of open space takes advantage of aspect for year round use; indigenous species are used and existing vegetation is recycled where possible; planting does not obstruct or interfere with entries; and unpaved areas are maximised to allow stormwater infiltration.

The development complies with the preferred solutions for landscaping and open space. The proposed outdoor areas will provide good amenity to the dwelling, being located close to the living spaces of the dwelling. Council’s Development Engineer has provided conditions regarding the proposal, including landscaping and these have been included in the Recommendation section of this report (see Condition 46).

**Floor Area**

| Preferred Solution | Assessment |
--- | ---|
S1 The preferred solution for an allotment of this area is that a maximum floor space ratio of 0.6:1 applies. | The proposed FSR is 0.597:1. Complies |

The Objectives and Performance Requirements of the DCP are that developments are not excessive in bulk or scale; are compatible with the existing character of the locality; and minimise adverse effects of bulk on neighbours and the street.

The proposal complies with the preferred solution for floor space ratio under the DCP. The amended plans have addressed Council’s concern regarding the bulk and scale of the development as viewed from the street by increasing the articulation of the street elevation and moving it slightly towards the rear of the property to minimise interruption to the roof plane. The proposal now meets the objectives for floor area under the DCP.

**Height, Form & Materials**

| Preferred Solution | Assessment |
--- | ---|
S1 External wall height of the building not exceed 7m | The proposed dwelling has an external wall height of 6.8-7.4 metres. Does not comply – see assessment below. |
<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 External wall height of buildings or additions to the rear does not exceed 3.5m.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>S3 Cut or fill does not exceed 1m.</td>
<td>Not applicable, no cut and fill proposed.</td>
</tr>
<tr>
<td>S3 No excavation within 900mm of a side boundary.</td>
<td>Pool setback 300mm from southern side boundary, does not comply – see discussion below.</td>
</tr>
<tr>
<td>S3 No excavation within 4m of a rear boundary.</td>
<td>Pool setback 2-3 metres. Does not comply - see discussion below.</td>
</tr>
<tr>
<td>S4 The length of a second storey portion is no greater than 12m at less than 1.5m from a southern boundary.</td>
<td>The entire southern elevation of the proposed dwelling is less than 1.5 metres from the southern side boundary at first floor level (extension of common wall) but is 12m in length. Complies.</td>
</tr>
<tr>
<td>S5 The second storey portion of a semi-detached dwelling be confined to within the existing roof space or be set back from the front elevation behind a substantial portion of the existing roof form and the design respects the symmetry of the adjoining semi-detached dwelling.</td>
<td>Complies. First floor level is setback from the front elevation sufficiently to reduce intrusion of addition on the existing pair of semis.</td>
</tr>
</tbody>
</table>

The Objectives of the DCP are that developments should not be excessive in height and scale and be compatible with the existing character of the locality; to ensure impacts in terms of privacy, natural light and views are minimised; and with respect to additions that they not detract from the individual character and appearance of the existing dwelling.

The relevant Performance Requirements are that the height of buildings should relate to those in the existing streetscape and the topography; buildings be designed to enhance the existing desirable built form character of the street by adopting where relevant characteristics of mass and proportion, materials and finishes, roof form and pitch, facade articulation, window and door location and proportions, and verandahs, eaves and parapets; with respect to additions to semi-detached dwellings they integrate with the attached dwelling; and views are shared.

The proposed dwelling has an external wall height of 6.8 metres to 7.4 metres. The building generally meets Council’s preferred solution for external wall height, with the 7.4 metre maximum occurring towards the rear of the site where the topography slopes downwards. The 600mm difference in level between the front and rear half of the ground floor could be accommodated stepping the floor level (a split level) in response to the topography. However, as these additions use existing floor levels within the dwelling and there are no substantial impacts from the non-compliance, compliance has not been pursued.

The additional wall height of the proposal will not result in significant additional overshadowing impacts to adjoining properties. Overshadowing in this instance is a result of the orientation of allotments. The height of development contributes to the length of...
shadows only and the additional height towards the rear of the proposal will not affect any habitable rooms of adjoining dwellings or contribute substantially to the impact on the rear yard of the adjoining dwelling.

The proposal complies with the preferred solution for wall height towards the street and this has minimised the impact of the development on the streetscape and adjoining semi. The predominant roof plane of the semi has been retained by the proposal in accordance with the preferred solution under the DCP. The general achievement of Council’s preferred solution for height has minimised impacts such as overshadowing and visual bulk to adjoining properties and the street.

The swimming pool is setback 300mm from the southern side boundary and 2-3 metres from the rear boundary. These setbacks do not comply with Council’s preferred solutions for excavation being 900mm and 4 metres, respectively. The relevant performance requirement is that the location and design of development relates to the topography of the site, with minimal cut and fill. Although the proposal does not meet the preferred solution under the DCP, the amount of excavation and interruption to the topography has been minimised by the design of the pool, which is semi-inground. The depth of excavation ranges from 900mm to 1.2 metres. The setback of the excavation from the rear boundary will allow for landscaping to soften the appearance of the development from the rear and southern sides. The reduction of the southern side setback of the pool to less than 900mm will minimise the area of pool surround which can be accessed by people using the pool, reducing privacy impacts to the adjoining property. Standard conditions relating to excavation have been recommended to ensure the construction of the pool will not affect adjoining properties.

The proposal includes rendering of the existing face brickwork street façade of the development and painting in neutral colours. 9 Kyogle Street (the other half of the semi is already rendered and painted and therefore no objection is raised to this proposal which will match the existing finish of the adjoining semi.

The proposal is satisfactory with regard to height, form and materials.

**Building Setbacks**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 Front setback is average of adjoining dwellings or 6m.</td>
<td>No change from existing setback. Dwelling is consistent with the setbacks of adjoining properties. Complies.</td>
</tr>
<tr>
<td>S2 No part of the building is closer than 4.5m from rear boundary.</td>
<td>The proposed dwelling is 9.3-9.6 metres from the rear boundary. Complies.</td>
</tr>
<tr>
<td>S3 Side setbacks be 900mm for any part of the building at ground level.</td>
<td>The proposed development is set back 0-1.11 metres from the northern side boundary. Does not comply – see assessment below. Southern side – Nil, extension of party wall compliance not required.</td>
</tr>
</tbody>
</table>
ITEM 5.5

Preferred Solution

Assessment

S3 Side setbacks be 1.5m at second floor level.
The proposed development is set back 910mm-3.5 metres from the northern side boundary. Does not comply – see assessment below.
Southern side – 0-1.5m, extension of party wall compliance not required.

S3 Side setbacks be 3.0m at third floor level.
Not applicable.

The Objectives and Performance Requirements of the DCP seek to ensure that there is adequate access to sunlight, daylight and fresh air to building occupants and neighbours; and with respect to front boundary setbacks the proposal generally conform to the adjoining development or dominant streetscape.

The proposal complies with the preferred solutions for rear setbacks under the DCP.

The proposal does not comply with side setback requirements to the northern side boundary at ground floor level. The area of non-compliance is limited to a 6.7 metre length of garage wall. This portion of the development adjoins the existing garage at 5 Kyogle Street and approximates its length. There are no windows on this wall and its location to the north of the site and towards the centre of the dwelling ensures the non-compliance does not result in any overshadowing impacts to surrounding properties. The nil setback will not affect the predominant pattern of development in the street, given that the existing garage at 5 Kyogle Street is also located on the side boundary. The neighbour at 5 Kyogle Street has indicated concern for construction damage to their garage as a result of the works. Although the construction of the garage is unlikely to affect the existing structure at 5 Kyogle Street, Condition 2 (requiring a dilapidation report) has been recommended to address this concern.

A nil setback is provided to the first floor on the southern side, however the non-compliant section continues the ground floor party wall and the remainder of the southern elevation is setback 1.5 metres in accordance with the preferred solution.

The proposal does not comply with first floor setbacks to the northern side, having a minimum setback of 910mm. The setback varies due to the irregular northern boundary. The majority of the northern wall is setback 1.5m or more (up to a maximum of 3.5m) and this results in an average setback of 1.8m which complies with Council’s preferred solution. There is one bathroom window in the northern elevation which is setback over 1.5 metres and complies with the preferred solution. The setback at first floor level provides adequate separation between the subject site and the adjoining development at 5 Kyogle Street and will maintain the predominant pattern in the street. The location of the non-compliance on the northern side has minimised the potential for overshadowing impacts. The development is satisfactory with regard to setbacks.
Visual & Acoustic Privacy

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 Habitable room windows within 9m of another dwelling’s windows are offset by 45 degrees or have fixed obscure glazing below 1.5m above floor level.</td>
<td>The proposal does not have any habitable room windows that overlook those of adjoining dwellings within 9 metres. Complies.</td>
</tr>
<tr>
<td>S1 Direct view into open space of an adjoining dwelling is obscured or screened within 9m and is beyond a 45 degree angle.</td>
<td>The amended plans provide 1.6m high side walls to the balcony to minimise overlooking to adjoining properties and narrow angle of view. Complies</td>
</tr>
<tr>
<td>S1 Windows have sill heights of 1.5m or more or fixed obscure glazing below that height.</td>
<td>No windows proposed to southern elevation at first floor level. Northern ensuite window has a sill height of 1.5m Complies</td>
</tr>
<tr>
<td>S3 Buildings comply with AS 371 and AS 2107.</td>
<td>Conditioned to comply with the BCA.</td>
</tr>
</tbody>
</table>

The Objective of the DCP is to ensure that new buildings and additions meet the occupant and neighbours requirements for visual and acoustic privacy.

The Performance Requirements include that overlooking of internal private living areas is minimised through appropriate building layout, location and design of windows and balconies; and separation, screening devices and landscaping be used to assist in minimising privacy impacts.

The amended proposal has provided additional screening to first floor balconies to minimise overlooking of adjacent properties. There are no windows that will overlook adjoining properties or rear yards of surrounding dwellings. The proposal complies with the preferred solutions of the DCP with respect to overlooking.

A semi-inground swimming pool and elevated deck are proposed to the southern side boundary. Initially, concern was raised regarding the bulk and scale of fencing required to minimise overlooking from the deck to the adjoining property to the south at 9 Kyogle Street. In response, the applicant has reduced the height of the fencing to 1.8m from existing ground level. This complies with Council’s preferred solution for fencing and has minimised the bulk of the development as viewed from 9 Kyogle Street. However, reducing the height of the fencing has increased the opportunities for overlooking from the northern side of the pool deck to the rear yard of 9 Kyogle Street. The pool has been raised out of the ground by up to 600mm to provide a mid-level between the landscaped rear yard and the ground floor level of the dwelling. The raising of the pool deck surround and reduced side and rear setbacks to this structure result in significant overlooking to the rear yards of 9 Kyogle Street and 101 Mons Avenue (to the rear) over boundary fencing. The level of the pool and deck should be reduced to be closer to ground level to minimise overlooking as screen structures to prevent overlooking would result in visual bulk and scale and overshadowing impacts in this case. Consideration was given to reducing the level of the pool by 200mm (one step) to maintain the design intent of elevating the pool, however this reduction in level did not satisfactorily prevent overlooking. As such, Condition 4 requires the pool and deck surround to existing average ground level (RL
21.0) so that people standing on the deck will not be able to look into the rear yards of adjoining properties.

The proposal (subject to compliance with conditions of consent) is satisfactory with regards to visual and acoustic privacy.

**Safety & Security**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1,2,3 Front doors of dwellings are visible from the street.</td>
<td>The proposed front door faces the street. Complies.</td>
</tr>
<tr>
<td>S1,3 Dwellings have at least one habitable room window overlooking the street.</td>
<td>The proposed dwelling has windows that overlook the street. Complies.</td>
</tr>
<tr>
<td>S2 A Council-approved street number is conspicuously displayed at the front of the dwelling or front fence.</td>
<td>Suitable condition included.</td>
</tr>
</tbody>
</table>

The Objectives and Performance Requirements of the DCP seek to ensure that a safe physical environment and crime prevention is promoted through design, including that buildings are designed to face the street and other public areas to provide for surveillance; dwellings and their entrances are readily identifiable by street numbering and design of front fences; and landscaped areas allows for safe access to the dwelling.

The proposal complies with Council’s preferred solutions for safety and security. Where compliance is not demonstrated in the plans standard conditions have been recommended. The proposal is satisfactory with regard to safety and security.

**Garages & Driveways**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 Council’s Parking DCP requires 1 space, for dwellings with 2 bedrooms or less, or 2 spaces, for dwellings with 3 bedrooms or more.</td>
<td>The proposed dwelling has parking for 2 cars (including a hardstand space to the front of the garage. Complies.</td>
</tr>
<tr>
<td>S1 Car parking spaces have a minimum dimension of 5.5m x 2.5m.</td>
<td>The dimensions of the parking spaces are minimum 2.5 x 3.5 metres. Complies.</td>
</tr>
<tr>
<td>S1 Driveways have minimum width of 3m and are set back at least 1m from the side boundary.</td>
<td>N/A retention of existing driveway proposed.</td>
</tr>
<tr>
<td>S1 Driveways have a maximum width of 3m at the property boundary.</td>
<td>N/A retention of existing driveway proposed.</td>
</tr>
<tr>
<td>S1 Driveway gradients should not exceed a maximum of 1 in 8 for the first 5m from street alignment and 1 in 6 thereafter.</td>
<td>N/A retention of existing driveway proposed.</td>
</tr>
<tr>
<td>S1 With respect to garages and carports to rear lanes these should be set back 1m to improve pedestrian visibility.</td>
<td>Not applicable.</td>
</tr>
</tbody>
</table>
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Preferred Solution Assessment

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S2 Parking and access is provided from the rear of the allotment where possible.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>S2 Garages and carports located behind the building line where parking only available from the front of the site.</td>
<td>The proposed garage is located behind the building line. Complies.</td>
</tr>
<tr>
<td>S2 Driveways, car parking spaces and structures do not occupy more than 35% of the width of the allotment</td>
<td>The proposed garage occupies about 41% (3.6m) of the width of the site frontage. Does not comply – see assessment below.</td>
</tr>
</tbody>
</table>

The Objectives and Performance Requirements of the DCP include that car parking and driveways are not visually obtrusive and do not detract from the appearance of the dwelling and the street scape; and structures are compatible in scale, form, materials and finishes with the associated dwelling.

The proposal generally complies with Council’s preferred solutions in respect to garages and parking structures. The proposed garage does not comply with the preferred solution that parking structures do not occupy more than 35% of the frontage of the allotment. The garage will replace an existing parking structure and is well set back from the front building alignment. The garage door is only 2.5 metres wide, representing only 28% of the site frontage and complies with Council’s preferred solution this minimises the impact of the garage as the remainder of the structure is well integrated into the design of the dwelling in terms of form and materials. A shade sail is proposed to the front of the garage over a hardstand space/ courtyard. This structure will assist in softening the appearance of the garage and the visibility of the parking from the street.

Council’s Development Engineer has reviewed the application and has no objection to the proposed retention of the existing driveway and parking arrangements.

Fences

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 Existing sandstone fences and walls are retained/recycled.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>S1 Solid front fences or on street frontages in front of the building line are no higher than 1.2m.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>S1 Fences in front of the building line or on street frontages may be up to 1.8m provided that the upper two thirds is at least 50% open.</td>
<td>The proposed front fence has a height of 1.0 metres. Complies.</td>
</tr>
</tbody>
</table>

Generally, the Objectives and Performance Requirements for fences in the DCP are to ensure that front fencing is integrated with the street scape and is compatible with the appearance of the dwelling and any established local fence form and material.

The development meets the preferred solutions for front fencing and will maintain the established open character and low scale of fencing in the area.
Concern has been raised in relation to the impacts of the semi-inground pool and requirement for increased fence height along the southern boundary of the site. The amended plans reduced the height of the fencing to 1.8 metres. However, not all the plans have been accurately annotated to reflect this change. Condition 6 has been recommended to clarify the side boundary fencing to the pool area.

Subject to compliance with conditions of consent, the proposal is satisfactory with regard to fencing.

**Solar Access and Energy Efficiency**

<table>
<thead>
<tr>
<th>Preferred Solution</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1 New dwellings comply with a minimum of 3.5 stars on the NatHERS.</td>
<td>N/A Alterations and Additions only</td>
</tr>
<tr>
<td>S2 Private open space receives at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June.</td>
<td>The rear yard will receive at least 3 hours of sunlight. Complies.</td>
</tr>
<tr>
<td>S2,8 North-facing windows to living areas receive at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June.</td>
<td>N/A No north facing living room windows proposed.</td>
</tr>
<tr>
<td>S9 Solar access to existing or future solar collectors on adjacent buildings is maintained between 9am and 3pm each throughout the year.</td>
<td>The proposal will not result in significant additional shadow to roofs of adjoining properties. Complies.</td>
</tr>
<tr>
<td>S9 North-facing windows to living areas of neighbouring dwellings receive at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June. If currently less than 3 hours, it is not further reduced.</td>
<td>N/A Northern elevation of the adjoining property to the south is a party wall – no windows.</td>
</tr>
<tr>
<td>S9 Principal outdoor recreation space of neighbouring dwellings receives at least 3 hours sunlight over part of its area between 9am and 3pm on 21 June. If currently less than 3 hours, it is not further reduced.</td>
<td>The proposal will reduce solar access to private open space to less than 3 hours Does not comply – see assessment below.</td>
</tr>
</tbody>
</table>

The overall Objectives of the DCP seek to ensure that development promotes and has regard to the concept of Ecologically Sustainable Development. In this respect the objectives promote energy efficiency in design and construction; encourage the use of appropriate resources and passive solar design; and protect solar access enjoyed by the adjoining premises.

In terms of Performance Requirements, as a general guide new dwelling houses and attached dual occupancies must demonstrate that they have been designed to achieve energy efficiency; achieve a NatHERS, rating of 3.5 stars; and buildings are orientated and internally configured to take advantage of and maximise solar access.
The proposal will increase overshadowing to the rear yard of 9 Kyogle Street during the midwinter period. Due to the orientation of the site, the existing dwelling, and large non-deciduous tree in the rear yard of 9 Kyogle Street overshadows itself from 12pm to 3pm midwinter. The proposal will not affect morning sunlight to the rear yard between 9am and 10am midwinter. After 10am the proposal will start to increase the shadow to the rear yard. At midday the proposal results in approximately 4m² of additional shadow to the rear yard. Due to the extent of existing overshadowing and vegetation on the site this increase will result in the majority of the rear yard (all except for 3m²) being overshadowed. The proposal is considered reasonable in its impact as it complies with the FSR and the height non-compliance of 400mm will not increase overshadowing, which is the result of the northeastern corner of the building. Due to the orientation of the building the height of the development affects only the length of shadows and not the outline of the shadow cast. The overshadowing is due to the orientation of the sites and not overdevelopment or an inappropriate proposal.

Standard conditions relating to energy efficiency have been applied. The development (subject to compliance with conditions of consent) is satisfactory with regard to solar access and energy efficiency.

**Draft Dwelling House and Attached Dual Occupancy Development Control Plan**

The Draft Dwelling House and Attached Dual Occupancy Development Control Plan has been exhibited (concluding on 4 November 2005).

The draft DCP proposes to update, simplify and improve current planning controls for dwelling houses, attached dual occupancy and associated development such as alterations and additions.

The proposal would generally achieve similar compliance with the Draft DCP as with the existing DCP. The Draft DCP includes increased requirements for landscaping, being 50% of the site area. The current proposal would result in a minor non-compliance (1% of the site area or 3.5m²) with the increased landscaping requirement.

Compliance with the Draft DCP has been given minimal weight in this assessment as it is neither imminent or certain at this point in the policy approval process.

The proposal is satisfactory with regard to the Draft DCP.

**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. Environmental impacts of the proposal have been discussed in Section 8, above. The proposal is considered satisfactory with regard to section 79C.

**10. FINANCIAL IMPACT STATEMENT**

There is no direct financial impact for this matter.

**11. CONCLUSION**
The proposal complies with the relevant assessment criteria and the objectives and performance requirements of the DCP for Dwellings and Attached Dual Occupancies and will not result in any substantial adverse impacts upon either the amenity of the adjoining premises or the character of the locality.

The application is therefore recommended for approval, subject to conditions.

RECOMMENDATION:

A. THAT Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No 17/2006 for New ground floor alterations & new first floor addition including new pool at the rear, raised rear deck, first floor balcony & new garage to the existing semi-detached dwelling at 7 Kyogle Street, Maroubra subject to the following conditions:-

1. The development must be implemented substantially in accordance with the plans drawn by Steven N. Koturic numbered DA01/A dated APRIL 06 in the amendments box and DA02/A, dated MAR.06 in the amendments box and stamped received by Council on 7 April 2006, the External Schedule of Finishes & Materials stamped received by Council on 16 January 2006, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

2. A dilapidation report prepared by a professional engineer or suitably qualified and experienced building surveyor shall be submitted to the certifying authority prior to the commencement of demolition, excavation or building works detailing the current condition and status of all buildings, including ancillary structures (i.e. including dwellings, residential flat buildings, commercial/industrial building, garages, carports, verandahs, fences, retaining walls, swimming pools and driveways etc.) located at 9 Kyogle Street, Maroubra and the existing garage located on the boundary of 5 Kyogle Street, Maroubra.

3. All fencing to be undertaken as part of the approved works is to be at the cost of the owner of the subject site.

4. The maximum level of the swimming pool and deck surround is to be RL 21.0. This condition is imposed to minimise the visual bulk and scale of these structures and associated fencing and to minimise the opportunity for overlooking from the pool deck. Details are to be included with the Construction Certificate application.

5. The northern and southern walls to the first floor rear facing balcony are to be a minimum height of 1.6 metres measured from finished floor level to minimise overlooking. This condition is imposed to clarify the plans. Details are to be shown on the plans submitted with the Construction Certificate application.

6. The fences located on the side or rear boundaries of the premises shall not exceed a maximum height of 1800mm, measured above the existing ground level.
On sloping sites or at changes in ground levels, the maximum height of the fence may exceed the abovementioned specified height by up to 150mm maximum adjacent to any required ‘step-downs’ or changes in ground level.

The applicant and owner is advised that the relevant provisions of the *Dividing Fences Act 1991* are to be satisfied accordingly and any necessary approvals or agreements should be obtained from the owner/s of the adjoining land beforehand.

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:

7. Metal roof sheeting is to be painted or colour bonded to minimise reflection and to be sympathetic and compatible with the building and surrounding environment.

8. There must be no encroachment of the structures onto any adjoining premises or onto Council’s road reserve, footway or public place, unless permission has been obtained from the owner/s of the adjoining land accordingly.

9. 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.

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

10. 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.

11. New 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.

12. New 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.

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

13. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and
details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

14. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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; and
- a statement stating that “unauthorised entry to the work site is prohibited”.

21. 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 &

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.

22. **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.

23. 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 provisions 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 principal building contractor and compliance with the provisions of the *Home Building Act 1989* (i.e. *Details of the principal licensed building contractor and a copy of the Certificate of Insurance*) are to be submitted to Council prior to the commencement of works, with the notice of appointment of the PCA / notice of intention to commence building work.

24. 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.

25. Smoke alarms are required to be installed in each Class 1 building or residential dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located in ‘dead-air-spaces’, in the corner junction of walls and ceilings between exposed rafters/Joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the Building Code of Australia – Housing Provisions.

Details of compliance with the provisions of the Building Code of Australia must be included in the plans/specification for the construction certificate.

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

26. The demolition, removal, storage, handling and disposal of building products and materials must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment & Conservation (formerly the Environment Protection Authority) and Randwick City Council policies and conditions, including:

- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.
- Randwick City Council Asbestos Policy (adopted 13 September 2005)

A copy of Council’s Asbestos Policy is available on Council’s web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council’s Customer Service Centre.
27. 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.

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

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

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia. Walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

29. Except with the written approval of Council’s Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like, is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

30. 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.

31. 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.
32. 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.

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.

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

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

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.

34. 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.

35. 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.

36. 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 (grater than 3m in length) or any container or other article.

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

37. A Certificate of Adequacy supplied by a professional engineer shall be submitted to the certifying authority (and the Council, if the Council is not the certifying authority) **prior to a construction certificate being issued** for the development, certifying the structural adequacy of the existing structure to support the additional storey.

The following conditions are applied to ensure compliance with the Swimming Pools Act 1992 and to maintain public safety and amenity:

38. Swimming pools are to be provided with childproof fences and self-locking gates, in accordance with the *Swimming Pools Act 1992* and regulations.

The swimming pool is to be surrounded by a fence having a minimum height of 1.2m, that separates the pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with AS 1926-1986.

Gates to pool area shall be a maximum width of 1 metre, and be self-closing and latching; the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.
A sign shall be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the document entitled “Policy Statement No.9.4.1: Guidelines for the Preparation of Posters on Resuscitation”, published in 1985 by the Australian Resuscitation Council and the sign must bear a notice that contains the words “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL”, together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the document entitled “Cardio Pulmonary Resuscitation” published by the Australian Resuscitation Council.

39. Swimming pools are to be designed, installed and operated in accordance with the following general requirements: -

- Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and
- All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises.

40. Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.

The operation of swimming pool/spa pool pump and equipment is restricted, if the noise emitted can be heard within a habitable room in any other residential premises, the equipment shall not be operated during the following hours, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 8.00pm on any Sunday or public holiday; or
- before 7.00am or after 8.00pm on any other day.

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

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

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

42. 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.
43. The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

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

44. That part of the naturestrip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant’s expense prior to the issue of a final Occupation Certificate.

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

46. In order to ensure the retention of the Grevillea robusta (Silky Oak) located in the rear yard of the adjoining property to the south, 9 Kyogle Street, close to the common boundary 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 with the position of its trunk and full diameter of its canopy clearly shown on all drawings.

   b. 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 and no stockpiling of soil or rubble within a distance of 2.5 metres off the southern boundary of the subject site.

   c. Any excavations required for footings, structures, pipes etc within a distance of 2 metres of the southern boundary which fall beneath the dripline of this tree, shall be undertaken by hand with any roots needing to be cut to be done so cleanly using hand held tools, with the affected area to be backfilled as soon as practically possible.

   d. Prior to the cutting of any roots or the installation of any footings associated with the southeast corner of the proposed pool and deck, the applicant will be required to contact Council’s Landscape Development Officer on 9399-613, giving at least 48 hours notice, so that a site inspection of the hand dug trenches can be carried out.

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.

ATTACHMENT/S:

Nil

SIMA TRUUVERT
DIRECTOR CITY PLANNING

RACHEL AITKEN
SENIOR ASSESSMENT OFFICER
Director, City Planning Report 46/2006

SUBJECT:  MATRAVILLE TOWN CENTRE DRAFT DCP ADDENDUM REPORT

DATE:  23 May, 2006  FILE NO:  F2004/08020

REPORT BY:  DIRECTOR, CITY PLANNING

EXECUTIVE SUMMARY:

This report is to advise Council of a map error in the finalisation of the Matraville Town Centre DCP.

The map error relates to the controls for the rear footprint envelope 495-503 Bunnerong Road, Matraville, known as the ‘Theos site’.

It is noted recommendation 2) of the Council resolution on the matter allows the Director City Planning to make minor modifications to correct drafting errors in the completion of the plans. Notwithstanding, in the interests of transparency, of what may compromise a minor modification, this map error has been reported back to Council.

INTRODUCTION:

A report on the Matraville Town Centre draft Local Environmental Plan (LEP) Amendment No 37, draft Development Control Plan (DCP), and draft Public Domain Strategy (PDS) was endorsed by Council at the Health Building and Planning Committee of 11 April 2006.

In finalising this DCP a mapping error has been identified. The error relates to the rear envelope on the ‘Theo’s site’, corner of Bunnerong Road and Daunt Avenue, Matraville.

ISSUES:

The map in the draft DCP as reported to Council, and shown in Attachment 2, provides the building envelope footprints generic for all development within the town centre. The key footprint is 4 storeys setting back to 5 on larger sites (shown as ‘dots’). Arising from public submissions in relation to the allotments on the eastern side of Bunnerong Road between Beauchamp Road and Daunt Avenue was the introduction of the ‘rear lot development’ envelope shown on the map as ‘horizontal lines’. The maximum height for rear lot development is 3 storeys.

The exhibited version of this map in the draft DCP, as in Attachment 1, showed a built form for the corner of Bunnerong Road and Daunt Avenue, known as the ‘Theos’ site of...
4/5 storeys to both the front and rear of the development. This form reflects, as intended, the existing master plan approval and development consent of a mixed 4/5 storey development. No submissions were received in relation to the exhibited form or heights for the ‘Theos’ site.

This intention was discussed in the HBP report of 11 April 2006 where the site was described as an approved mixed use development in two built forms to 5 storeys. The drafting of the map presented to Council did not correctly reflect the statement in the body DCP and the report. The map has been corrected and submitted for Council’s approval (Attachment 3).

**FINANCIAL IMPACT STATEMENT:**

There is no direct financial impact for this matter.

**CONCLUSION:**

The horizontal lined ‘rear lot development’ to the rear (western boundary) of the ‘Theos’ site is to be amended and shown as ‘dots’ thus permitting the current development consent of 4/5 stories. It is noted that amending the map as proposed is consistent with the built form and height of the exhibited version of the draft plan, to which no submissions were received in objection. Thus the amendment does not require further public exhibition.

Council’s resolution allows the Director City Planning to make minor modifications to correct drafting errors in the completion of the plans. Notwithstanding, this mapping error is reported back to Council for approval.

**RECOMMENDATION:**

That Council note and endorse the corrected page 11 map, as shown in attachment 3 to this report, in which the horizontal lined ‘rear lot development’ footprint to the rear (western boundary) of the ‘Theos’ site is amended and shown as ‘dots’ for inclusion in the final DCP.

**ATTACHMENT/S:**

1. Section 3.3.4 page 23 map extract from the exhibited Draft DCP, September 2005 reported to Council HBP 11 October 2005.
2. Section 3.3.1 page 11 map extract from the revised DCP Draft 4, reported to Council 11 April 2005.
3. Section 3.3.1 page 11 map as amended for finalisation of the DCP Matraville Town Centre. **ALL UNDER SEPARATE COVER**
Director, City Planning Report 47/2006

SUBJECT: UPDATE ON RANDWICK'S ENERGY CONSERVATION CAMPAIGN AND RESIDENTIAL INCENTIVE SCHEME

DATE: 1 June, 2006
FILE NO: F2005/00230

REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

The purpose of this paper is to inform Councillors on Randwick’s innovative Energy Conservation Campaign targeting residents over Winter 2006 through an external grant of $200,000.

ISSUES:

As reported previously to Committee on 14, March, 2006, Randwick Council is one of only 2 NSW Councils receiving funding of $200,000 under the Department of Planning’s Demand Energy Management Program. This program enables Council to work with residents on ways to improve energy conservation within Randwick City, reduce energy costs and decrease greenhouse gas emissions from the residential sector.

The Campaign provides the ideal partner to the energy saving initiatives underway across Council operations under the Sustaining our City Program. The Energy Conservation Campaign known as Randwick’s Home Energy Makeover will be a first for NSW Councils and comprises 3 main stages for community participation, each flowing from the previous stage.

1. Taking the Householder Energy Pledge

A comprehensive communications campaign will invite residents to take the Energy Pledge. The Energy Pledge involves residents agreeing to undertake 3 out of 5 straightforward energy saving actions over a 12 month period. The choices open to residents taking the pledge include:
- Installing 5 free energy saving globes in their home or unit
- Choosing to walk 4 times a month for short trips instead of driving a car
- Asking residents to choose a minimum 3 star energy rating when they replace whitegoods such as refrigerators, washing machines or clothes dryers
- Choosing to have a 2nd or 3rd fridge taken away when no longer required (a $50 rebate and free collection is available to interested residents)
• Adjusting the air conditioning, heating or hotwater thermostat up or down by 1 degree to save energy.

Residents taking the pledge will also be able to gain access to a free 30 minute Home Energy Audit (see step 2 below) and go into the draw held each quarter to have their energy bill paid for the previous 12 months. At the end of the Campaign they will also go into the draw to receive $2,000 worth of energy and water efficient whitegoods.

2. Receiving a free Home Energy Audit

Residents taking the Energy Pledge will be entitled to receive a free 30 minute Home Energy Audit although there will be an upper limit of approximately 2000 audits carried out over a two to three month period. The audit will be carried out by trained staff and give residents a brief report outlining where energy saving measures can be followed up in their home or unit.

Residents will be able to follow up the advice provided for the savings set out in the audit report or, subject to meeting certain energy usage criteria they may be eligible for financial incentives to implement a number of the suggestions provided in their audit report (see step 3 below). The value of the financial incentive will be approximately between $800 and $2000 subject to the number of eligible or interested householders.

A number of local businesses have also agreed to support the campaign by providing discounts to residents interested in implementing energy saving measures which supports the Mayor’s “Shopping Local” initiative.

3. Energy Incentives Scheme

On completion of the free Home Energy Audit and subject to energy usage criteria a limited number of Randwick residents will be able to access a financial incentive scheme enabling those residents to receive a 20 - 40 percent subsidy to implement a number of the energy saving measures identified during the Home Audit. While the householder will be expected to contribute to the cost of implementation, the potential will be for participating householders to receive a subsidy of between $800 to $2,000 for the purchase of energy conservation measures such as, installation of ceiling insulation, a solar hotwater service or solar panels (conditions and limits will apply).

FINANCIAL IMPACT STATEMENT:

The cost of conducting Randwick’s Home Energy Makeover Program are included in the $200,000 grant provided to Council.

CONCLUSION:

Sustaining our City and Communications staff are currently finalising details of the Home Energy Makeover Campaign ahead of its commencement late in June, 2006. Eligibility criteria and conditions will be available at the time of the launch of the Campaign.
Randwick’s Energy Conservation Campaign and residential incentive scheme is an innovative project that complements Council’s own energy conservation actions. The results will not only benefit Randwick residents and the environment but be used to assist energy utilities and planning authorities identify and strengthen their own energy saving campaigns for the purpose of reducing householder energy demand and slow the need for new power stations within NSW.

RECOMMENDATION:

That Council endorse Randwick’s Home Energy Makeover Campaign.

ATTACHMENT/S:

Nil

SIMA TRUUVERT  P. MAGANOV
DIRECTOR, CITY PLANNING  MANAGER, SUSTAINABILITY
**Director, City Planning Report 48/2006**

<table>
<thead>
<tr>
<th>SUBJECT:</th>
<th>Draft Randwick City Affordable Rental Housing Program + Procedures</th>
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<tbody>
<tr>
<td>DATE:</td>
<td>30 May, 2006</td>
</tr>
<tr>
<td>FILE NO:</td>
<td>F2004/07952</td>
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<tr>
<td>REPORT BY:</td>
<td>DIRECTOR, CITY PLANNING</td>
</tr>
<tr>
<td>EXECUTIVE SUMMARY:</td>
<td>Council endorsed a management framework for its Affordable Rental Housing Program at its meeting of 28 March 2006. Option 2, the option approved by Council, involves retaining ownership of affordable housing stock, and employing a Housing Association to undertake the daily rental and property management functions. It was also reported that upon endorsement of Option 2, a draft Housing Policy would be prepared for Council’s consideration. This report describes the aims and procedures for Council’s Affordable Rental Housing Program (ARHP), and suggests a methodology for selecting a housing association to manage the rental portfolio on Council’s behalf. These procedures need to be put in place, and a housing manager appointed, before Council’s affordable rental housing properties can be tenanted. The major components of the Draft Affordable Rental Housing Program are: A. <strong>Program Aim</strong> - To provide rental accommodation for households on low to moderate incomes for a maximum of five years. After the fifth year, tenants will need to vacate to allow other households to benefit from this program. B. <strong>Eligibility Criteria</strong> - Applicants to have a local connection (e.g. family living in the area, or an employee working in the LGA). They must be permanent residents or Australian citizens, permanently employed and earn a minimum gross household income of $549 per week and a maximum of $1,319.40 per week (Sydney median household income). C. <strong>Rent Policy</strong> – Rent charged will be a maximum of 75% of the estimated market rent for an affordable housing dwelling. In other words, if the weekly rent is estimated at $280, then the tenant will pay a discounted rent of $210 per week. D. <strong>Advertising of Vacant Dwellings</strong> - All vacancies will be advertised in the local paper. Other notification methods may also be used (e.g. council’s website). E. <strong>Allocation Policy</strong> – A combination of factors, including the relative housing needs and circumstances of all eligible applicants, will be assessed by Housing Association specialist staff, prior to making an allocation decision.</td>
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This report recommends that Council endorse the Draft Affordable Rental Housing Program + Procedures, including the process for selecting a Housing Association to manage its rental operation.

BACKGROUND

At the ordinary Council meeting of 28 March 2006, after considering a report on the Draft Randwick City Affordable Rental Housing Program, Council resolved to:

a. **Endorse Option 2 as the management framework for its Affordable Rental Housing Program, which involves Council retaining ownership of the dwellings and employing a Housing Association (HA) to carry out the day to day and cyclical rental/property management functions; and**
b. **Note the current status of the GST issue. A further report will be prepared once Council’s position is clarified by the Australian Taxation Office.**

That report also foreshadowed (in the event of Option 2 being endorsed), the preparation of draft affordable housing procedures for Council’s consideration in June 2006.

This report which is currently before Council,

1. describes the procedures and policies proposed for Council’s affordable rental housing program (ARHP),
2. suggests a methodology for selecting a housing association to manage the rental portfolio on Council’s behalf,
3. clarifies the Council’s position regarding its GST liability arising from the transfer of housing stock from developers, and
4. recommends the ARHP + Procedures, including Housing Association selection methodology, be adopted by Council.

DRAFT AFFORDABLE RENTAL HOUSING PROGRAM PROCEDURES

**Explanatory Notes**

The attached Draft Affordable Rental Housing Program + Procedures document has been prepared in support of the management framework endorsed by Council at its 28th March 2006 meeting.

Essentially, the draft ARHP Procedures describe how the affordable rental housing program will work. It has been designed to ensure that Council does not incur out of pocket expenses and that the costs are fully covered by rent revenues. The ARHP also comply with Council’s other requirement that it should not be involved in the day to day rental responsibilities such as managing tenants and property maintenance.

As mentioned earlier, a Housing Association (HA) will be selected by an Expression of Interest Process to manage its affordable rental housing stock. Only one HA will be selected to manage the entire affordable housing portfolio, which at this stage represents a total of fifteen negotiated dwellings. The HA will be paid a management fee, to be covered by rental income. As part of the Deed of Management Agreement between the
HA and Council, the HA will manage Council’s affordable rental housing program in accordance with the terms of the Procedures, if endorsed by Council. The whole rental portfolio will then be head leased to the HA at a peppercorn rent. This action transfers Council’s legal responsibility as a landlord to the HA, and minimise Council’s direct involvement with potential applicants and individual tenants.

The Attachment 1 document, if endorsed by Council, will become a public document. Provided below are explanatory notes relating to the sub-headings of the attached document:

1. **Aims of the Affordable Rental Housing Program**

The Affordable Rental Housing Program (ARHP) should not be confused with the Council’s affordable housing strategy or policy. Housing strategies describe the plan Council has put in place to encourage or increase the supply of affordable housing within the LGA. The Affordable Rental Housing Program is about how Council will, having received the dwellings from developers, lease out the dwellings to tenants and manage the properties in a responsible manner.

The Program aims are consistent with the recommendations of the Inner East Sydney Regional Housing Strategy, which have identified as a major concern, the lack of affordable rental accommodation available to families earning weekly moderate incomes or less. Council endorsed this Regional Strategy at its 14 April 2006 Health, Building and Planning Committee meeting.

The ARHP is intended to assist local residents or employees on low to moderate incomes who experience difficulties securing affordable rental housing within the LGA. It is envisaged that the typical tenant would be the ‘working poor’ for want of a better word, and includes key workers such as childcare assistants, kindergarten teachers, nursing aides, hospitality staff, and retail assistants. It is important to note that tenants are only housed for a maximum of five years. This will allow more households to benefit from the program, given the limited number of Council owned affordable housing properties.

2. **Why Have an Affordable Rental Housing Program**

3. **How Does Council Get Its Rental Dwelling Stock**

These two sub-headings explain why Council is involved in promoting the supply of affordable housing and how it secures properties for rental purposes. It represents background information for anyone interested in how Council became involved in, and the process used to secure its supply of affordable housing.

4. **Eligibility Criteria**

In terms of the proposed eligibility criteria, it is not the intention of Council’s ARHP to duplicate the services provided by the NSW Department of Housing. The Department’s role is to assist families and individuals with the greatest need, particularly households on statutory incomes or pensions. The Council’s program is intended to assist households
who don’t qualify for public housing accommodation and are subjected to housing stress, a condition used to describe households earning moderate incomes or less but spends more than 30% of their wages on housing costs. This is why households earning between $549.75 and $1,319.40 per week (gross) are targeted by the ARHP.

To be eligible, the applicant must hold a permanent position (either full or part time). Proof of employment and annual income will be required as evidence by the Housing Manager as part of the selection/interview process. A tenant’s ability to pay discounted rent is important to ensure that the program continues to be financially sustainable.

5. How Tenants Are Assessed and Allocated Homes

The HA manager will be responsible for managing the tenant selection process. The manager will organise an assessment panel which may be attended by a council representative as an observer. It is important for Council to maintain a hands-off approach in the selection and assessment process. HA managers are trained to perform this particular task, and will use procedures sanctioned by the Office of Community Housing through its annual performance and registration systems for Housing Associations. The assessment methodology is merit based, not on a wait turn basis which is now considered to be an outmoded practice.

6. Housing Register for Council’s Affordable Rental Housing Program

The purpose of the housing register is to minimise the amount of paper work for both applicant and housing manager. This allows an application to have a ‘shelf life’ of 12 months, to avoid having to submit multiple copies of applications each time a dwelling becomes available for allocation. The register is not a waiting list.

7. Rent Policy

This method of rent setting is considered to be an effective methodology for affordable housing purposes. It involves giving the occupants at least a 25% discount on the estimated market rent of that particular property. The rent applicable for each property will be different, depending on the location, size and the condition of the property in question. The discounted market rent policy recommended for Council’s ARHP was tested on a number of pilot projects owned by the Centre for Affordable Housing in various Sydney locations. The evaluation result, obtained after 18 months demonstrated that the properties have generated sufficient rental incomes to cover all property and management expenses. There were also surplus funds generated to cover unexpected contingencies. Waverley Council has applied a similar rent setting methodology, except it is understood that instead of using estimated market rent, the median rent for the LGA was used as the starting point for the discount rate of 25%.

Nonetheless, a financial modelling exercise was undertaken, using Pacific Square as an example, to test out the feasibility of this rent setting method for Council’s use. Using a spreadsheet model designed by the Centre for Affordable Housing for this purpose, it was
estimated that the rental dwellings in Maroubra Junction (all one bedroom units) will, in total, return a net cash surplus of just over $1,000\(^1\) at the end of year one. Any surplus will be used to fund, extraordinary administrative costs, upgrades and capital works etc.

8. **Exit Strategy: Planning for Beyond the Fifth Year**

As each tenancy will be limited to a maximum of five years, the intent of this strategy is to remind tenants that their fifth and final year of occupancy will soon be up. The training is only offered to tenants at the discretion of the Housing Manager, and is not compulsory.

9. **How Council will manage the ARHP**

Details of the management framework (Option 2) were reported to Council at its 28\(^{th}\) March 2006 meeting. A Housing Association will be engaged to manage the day to day rental and property management operations on a fee for service basis. Council will head lease the entire affordable housing property portfolio to the Housing Association at a nominal rate. The ARHP will be managed on Council’s behalf by an accredited and registered Housing Association, to be selected through a competitive process (Expressions of Interest).

10. **Deed of Management**

Two legal documents will be signed between Council and the Housing Association. Firstly, a standard head-leasing agreement as discussed in the above paragraph and secondly, a Deed of Management Agreement. This document sets out in detail all the tasks required to be undertaken by the Housing Association, and the responsibilities of both signatories. The Centre for Affordable Housing has designed and successfully tested a pro-forma Deed of Management Agreement with Council’s position in mind. Council staff will use the pro-forma document as a guide to prepare its own Deed of Management Agreement.

11. **Asset Management and Classification of Properties**

The Local Government Act 1993 requires all land vested in a Council be classified as either ‘community’ or ‘operational’. Classification is generally achieved by an LEP; and in some cases by resolution of Council. Section 31 of the Act requires land acquired after 1\(^{st}\) July 2003 be classified as operational either before acquisition, or within three months of acquisition. If the land is not classified within three months of acquisition, it is taken to have been classified as community land.

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\(^1\) A conservative figure because an annual 2\% of the property value was applied to budget for cyclical maintenance works undertaken each year within the strata units. The 2\% figure is equivalent to about $36,000 per year for all five dwellings. It is unlikely that this amount is fully required annually since strata levies cover the costs of all external common area maintenance.
Land classified as ‘community’ imposes on Council a relatively limited range of asset management options. It will limit Council’s ability to make commercial decisions aimed at minimising maintenance liabilities, and for improving its affordable housing portfolio, such as making dwelling disposal-replacement decisions, to ensure that the dwelling type matches tenant needs. Given the unpredictable nature of the local property market, it is important for Council to have the same advantage of a commercial operator when it becomes necessary to make timely decisions about the disposal and acquisitions of affordable housing properties.

Legal advice from Council solicitors confirmed that an ‘operational’ classification is appropriate for its affordable housing properties.

COUNCIL’S POTENTIAL GST LIABILITY

Earlier this year, Council solicitors confirmed Council’s liability to pay GST on new affordable housing stock targeted for transfer to Council’s ownership. A total of fifteen units were negotiated under the master planning provisions. Council officers sought advice from the Centre for Affordable Housing on ways to minimise this liability. A meeting was subsequently held between the Centre’s GST adviser, Deloitte, and Council officers. Recently, Deloitte was engaged by Council to prepare a private ruling submission on its behalf, seeking the Australian Taxation Office’s (ATO) confirmation that GST is not warranted for dwelling units transferred to Council in kind and used for affordable housing purposes.

An amendment to Section 82 of the \textit{A New Tax System (Goods and Services Tax) Act}, was made in 2002. It provides that GST on supply (in Council’s case, affordable housing units) is exempt, when certain conditions are met. When used in conjunction with the voluntary planning agreement provisions under the EP&A Act, which came into effect mid 2005, Council would not have been liable to GST. This is because the conditions described under Section 82 of the GST Act would have been clearly satisfied. Unfortunately, Council’s affordable housing units were negotiated and reflected in development consents issued before the new planning agreement provisions came into effect. This is the point of uncertainty that gave rise to the need for Council to seek a private ruling from the ATO. Therefore the thrust of Council’s argument in its submission is that its local environmental planning provisions, ie Clause 40 (master plan process) fulfilled the requirements under Section 82 of the GST Act.

A decision is expected to be issued late June/July. Council will be advised as soon as a decision is issued by the ATO. The transfer of three units is imminent and Council has recently received the title deed to the fourth unit.

FINANCIAL IMPACT STATEMENT:

As previously reported to Council, the Affordable Rental Housing Program is intended to be cost neutral, to be covered by weekly rents received. The Program will incur some upfront establishment costs, an example of which is the preparation of legal documents to engage a HA, which will be funded by Council’s S94 affordable housing funds. A Senior
Planner will spend an equivalent of six working days to initiate and complete the Housing Association selection process.

CONCLUSION:

Over a period of five years, Council has successfully secured through its master planning process, a total of fifteen affordable housing units. The GST liability question is shortly to be confirmed by an Australian Taxation Office private ruling. As such, the transfer of four affordable housing units to Council’s ownership is imminent. There is a need to put into place tenancy and management arrangements before the dwellings are transferred to Council. This will help minimise delays in allocating vacant dwellings to selected households.

Council first considered a report canvassing three possible management framework options which can be used to operate its affordable rental housing program. At its 28 March 2006 meeting, Option 2 was adopted, which involves retaining ownership of its affordable housing stock and employing a specialist Housing Association to manage the program on its behalf.

The attached draft document entitled “Affordable Rental Housing Program + Procedures” is the final piece of work that needs to be put in place before Council can commence the process of selecting the Housing Manager (HA) and following on from that, interviewing and allocating the dwelling to eligible tenants. The contents are consistent with, and support the framework (Option 2) that Council endorsed in March 2006.

A more comprehensive Affordable Housing Policy will be reported to Council at a later date as part of the work arising from the City Plan. The Policy will contain information about Council’s role in promoting/encouraging/maintaining supply of affordable housing in Randwick City.

RECOMMENDATION:

That Council:

a) note the report; and

b) endorse the Affordable Rental Housing Program + Procedures for implementation.

ATTACHMENT/S:

DRAFT RANDWICK CITY AFFORDABLE RENTAL HOUSING PROGRAM + PROCEDURES

.............................................. ..............................................
SIMA TRUUVERT TERESA MOK
DIRECTOR, CITY PLANNING SENIOR PLANNING OFFICER
ATTACHMENT 1

Randwick City Council
Affordable Rental Housing Program + Procedures

1. **Aims of the Affordable Rental Housing Program**

This Program is one of a number of initiatives being implemented by Council to encourage the supply of housing that is affordable to households earning a moderate weekly incomes or less.

The aims of the Program are to assist local residents or employees whose incomes exceed the eligibility criteria for public housing but unable to rent locally without succumbing to housing stress. It is designed to assist employed people on low to moderate incomes for a period of up to five years to give them a greater level of housing certainty and opportunities to enter the private rental market or home ownership by the end of that period.

It is also the intention of the Program to:

- assist tenants on low to moderate incomes for a maximum period of five years;
- allocate more than half of Council’s housing portfolio to households on low incomes, as the preferred mix;
- ensure the full cost of the Program, including day to day property and cyclical maintenance, tenancy management, administration fees and major upgrading works are fully covered by rent revenue collected by the Housing Manager; and
- return any surplus income generated by the program to Councils’ affordable housing account for future upgrading, new capital works or related purposes.

The five year maximum assistance period will give households a greater level of housing certainty, as well as an opportunity to enhance their capacity to enter the private rental market or home ownership by the end of that period. A standard residential tenancy lease will be renewed on a twelve monthly basis. This gives housing managers the opportunity to ensure that tenants continue to meet Council’s affordable housing eligibility criteria.

2. **Why Have An Affordable Rental Housing Program?**

Housing has a vital role to play in developing sustainable local communities. Providing housing that is affordable and appropriate to the needs of the local communities will also ensure a strong labour force and sustain local businesses.

The lack of affordable housing for households on low and middle incomes is a critical and recurring theme in Randwick City: housing costs in the LGA are among the highest in NSW. Many households on moderate or lower incomes cannot afford to rent in the inner...
city and the eastern suburbs without experiencing housing stress or being forced into sub-
standard housing in order to secure affordable rents.
The consequences of poor rental and home purchase affordability are substantial with
obvious examples being:

- Local residents with established ties being driven further away from the sub-
  region in search of more affordable housing. This has a tendency to weaken the
  connection, sense and strength of the community fabric.
- Employers are experiencing the problem of retaining low paid workers. The costs
  of recruiting and training new employees, and from failures to meet service
  standards or production deadlines affect the financial viability of local businesses.²

In recognition of the important role affordable housing plays in our local community, the
Council has developed an affordable rental housing program. This, along with a range of
other affordable housing initiatives adopted by Council will help support and encourage
local supply.

### 3. How does Council get its rental dwelling stock

Council obtains its rental housing stock from developers who have participated in a
voluntary planning agreement process to transfer a proportion of built dwellings to
Council’s ownership, for affordable housing purposes. Upon registration of the strata
plan, the developer transfers the dwellings to Council’s ownership.

Council may also receive cash contributions for affordable housing purposes from
developers as part of the negotiated planning agreement process. Funds accumulated in a
separate account through this process are used to add to the supply of Council’s rental
housing portfolio.

Contact details of the housing manager (Housing Association) will be posted on Council’s
website, should the local community wish to find out more about the rental housing
program.

### 4. Eligibility Criteria

The Program has defined two major income groups with a need for accommodation below
market rent prices, as follows.

<table>
<thead>
<tr>
<th>Group</th>
<th>Income Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Low ($549.75 - $879.60 gross per week)</td>
</tr>
<tr>
<td>2</td>
<td>Moderate ($879.60 - $1,319.40 gross per week)³</td>
</tr>
</tbody>
</table>

Initially a mix of low and moderate income households will be allocated dwellings.
Allocation of more than half of Council’s housing portfolio to households on low incomes

³ May 2005 figures. These figures are adjusted on a yearly basis, obtained from the Centre for Affordable Housing
(DOH).
as the preferred mix can only happen over time: when Council has sufficient housing stock and/or surplus rental income to guarantee the financial viability\(^4\) of its rental housing operations.

A successful applicant will need to satisfy the following criteria,

- must be permanently employed and earning a gross weekly household income of between $549.75 - $1,319.40,
- has a local connection (e.g. family living in the area and/or is an employee in Randwick City),
- does not own assets or property which could reasonably be used to solve their housing needs,
- is an Australian citizen or permanent resident,
- must not already be living in subsidised housing (Department of Housing or Community Housing managed accommodation),
- is not a former tenant of Council’s ARHP, and
- is not an employee of Randwick City Council.

The Council’s Housing Program is about complementing, not duplicating the role of the public housing authority whose priority it is to assist households with the greatest needs.

### 5. How Tenants are Assessed and Allocated Homes

The Housing Manager engaged to manage the dwellings will advertise for tenants in local newspapers at the commencement of the program. Applicants who fulfil the eligibility criteria can lodge an application.

Because demand exceeds supply, dwellings will be offered to applicants having the greatest need for rental accommodation (relative to other applicants). Allocation decisions will be made by the Housing Manager after an assessment and interview process. The Housing Manager, who has the experience and expertise to make the decisions, will also take into account other factors such as appropriate match of properties suited to tenants’ needs and income level\(^5\) (percentage of weekly household income spent on rent, and other social housing considerations).

In addition to submitting an application form, short listed applicants will be required to attend an interview with the Housing Manager as part of the assessment process.

In accordance with the provisions of the NSW Residential Tenancies Act 1987, a standard residential tenancy lease will be entered into between the Housing Association and the tenant.

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\(^3\) Financial viability in this context means that the full cost of its affordable rental housing program is covered without the Council incurring out of pocket expenses/debts. The cost of replacing housing assets and other related building life cycle components have to be accounted and planned for. In time, there may be an opportunity to provide a bigger discount on the market rent in some circumstances, funded by surplus income from properties generating higher rental incomes.

\(^5\) Ideally, and where possible, the rent paid by tenants should fall within the percentage range of 25% and 30% of their gross household weekly incomes, including any rental housing subsidies received from Centrelink.
6. **Housing Register for Council’s Affordable Rental Housing Program**

Applicants previously assessed as being eligible for affordable housing but not offered rental accommodation under this Program will be placed on a Housing Register. When a dwelling becomes vacant for letting within 12 months from the date of their application, they will be contacted again. Provided that they meet the eligibility criteria, and are still interested in pursuing a vacancy, their circumstances will be considered again along with fresh applications received. Tenants who have previously been housed under the Program will not be eligible for re-application.

7. **Rent Policy**

The rent for each property will be set at a maximum of 75% of weekly market rent for comparable dwellings. This means that if the weekly market rent is estimated at $280 per week, then the tenant will pay $210 per week.

A bond equivalent to four (4) weeks rent shall be payable by the tenant upon lease commencement or otherwise as agreed between the tenant and the Housing Manager. From time to time, the rents charged for affordable housing properties will be readjusted to bring them more in line with current weekly market values. However, rent adjustments and all other leasing arrangements between the Housing Association and tenants will be undertaken in accordance with the NSW Residential Tenancies Act, 1987.

A market-based rent formula instead of an income-based method (as used for public housing tenants) provides greater certainty for Council’s program to sustain itself at no additional costs to rate payers (cost neutral).

8. **Exit Strategy: planning for beyond the 5th year**

The Housing Manager, at their discretion, may offer appropriate training or counselling services to tenants before the end of their third year of occupancy. This may be in the form of development of a budgeting or savings plan towards a home deposit, or any other appropriate training programs considered relevant to help a tenant plan effectively for their exit from Council’s Affordable Rental Housing Program at the end of the 5 year period.

As part of the annual lease renewal process, the Housing Manager may enquire about the progress of the tenant’s exit plan, as a reminder of the finite tenancy period.

9. **How Council will Manage the Affordable Housing Program**

A Housing Association (HA) with relevant experience and expertise will be engaged by the Council to manage its rental program. The HA will be sought via a competitive expression of interest process. Only members of the Office of Community Housing’s
Registration System will be considered for selection. Under this system the performance of a HA is assessed on an annual basis. The HA will submit a Curriculum Vitae of their organisation, and a statement of how they will provide the required services to Council.

Council will convene a selection panel, to include, appropriate representatives from Council, the Centre for Affordable Housing and/or the Office of Community Housing (both divisions of the NSW Department of Housing). The panel will interview and recommend an appropriate Housing Association for the General Manager’s endorsement.

Council’s affordable housing stock is to be head-leased to the appointed Housing Association at nominal rent. The Housing Manager assumes the responsibility of landlord, property and tenancy manager. The Housing Manager is paid a management fee negotiated as part of the selection process. Income generated from the rental properties is intended to cover the cost of maintaining the properties and program administration.

10. Deed of Management

Council, as property owner, will enter into a contract with the successful HA, for an initial five year period, to manage its properties and affordable rental housing program via a Deed of Management (Annexure A).

The Deed of Management will set out the rights and responsibilities of both parties. It provides for both tenant management and property management procedures, and any other requirements a housing manager is required to implement as part of Council’s Program, such as rent setting details, tenant selection and dwelling allocation procedures. It also sets out entitlements for costs and management fees, financial reporting requirements and allocation of funds, performance review processes, dispute resolution and other such detailed contractual matters.

Council will undertake a comprehensive evaluation of the ARHP procedures, including the financial viability of the program in general and the performance of the Housing Association, on the program’s fifth year, 2011. It is envisaged that a comprehensive review of the rental program will occur at least once every five years or sooner, if considered to be necessary.

11. Asset Management

All affordable housing units or dwellings transferred to Council’s ownership will be classified as ‘operational’. An operational classification will allow Council to make prudent decisions aimed at minimising maintenance liabilities and improving its affordable housing portfolio in a timely manner. Examples of asset improvement decisions include asset disposal-replacement decisions to ensure that the Council’s property portfolio continues to match tenant needs, and to pick an optimal time to make these decisions given the unpredictable nature of the local property market.
Towards the end of the five year leasing period, or when a unit become vacant, Council will undertake a conditions assessment and make any necessary internal repairs, prior to reletting.
**Director, City Planning Report 49/2006**

**SUBJECT:** DRAFT CHILD CARE CENTRES POLICY

**DATE:** 1 June, 2006 **FILE NO:** F2006/00214

**REPORT BY:** DIRECTOR, CITY PLANNING

**INTRODUCTION:**

On 18 April, 2006, following a Notice of Motion by Councillor Tracey and seconded by Councillor Andrews, Council resolved that the Director of City Planning prepare a report on a proposal that Council develop a Child Care Centres Policy as a matter of urgency. The Notice of Motion required Council to consider a range of matters as listed in a copy of the resolution (Attachment A).

A Draft Child Care Centres Policy has been prepared (Attachment B) and addresses the points raised in the resolution. This report discusses the relevant aspects on which to base any policy, provides a draft policy, and recommends that a draft policy be endorsed by the Council.

**ISSUES:**

**Demographics**

Compared with the Sydney average (based on 2001 Census data), Randwick City has a lower proportion of children and a lower proportion of households identified as couples with children. There are, however, slightly more one parent families than the Sydney average. The long term projection is for a proportionate decrease in the number of children in Randwick City.

Furthermore, there is anecdotal evidence of a shortage of child care places, particularly for 0-2 year olds. In recent months, the number of development applications (DAs) for child care centres lodged with Council has increased. This may represent changing patterns of returning to work and demand from families working in or near to Randwick City.

**Existing child care centres**

Council’s Community Services Directory lists 30 long day care centres and 20 preschools operating in Randwick City.
There are currently four DAs pending determination by Council. Six other DAs for child care centres have been approved within the last year.

**Common issues**

The most critical issues arising in the assessment of DAs for child care centres are potential noise, traffic and parking. Applicants are also required to comply with NSW Department of Community Services (DOCS) requirements.

**Planning and legislative framework:**

Child care centres are permitted with development consent in most land use zones in Randwick City. In addition, family day care (maximum 5 children) is exempt development in the Residential zones.

Currently, DAs for child care centres are assessed on the basis of Randwick Local Environmental Plan (LEP) and the Environmental Planning and Assessment (EPA) Act. The LEP aims, objectives, and zone development standards are relevant; and the EPA Act sets out general matters for consideration under section 79C.

In addition, relevant Development Control Plans are used where applicable, for example, the Car Parking DCP.

**NSW Children’s Services legislation**

DOCS administers legislation relating to the establishment and operation of children’s services. It licenses child care centres and checks their legislative compliance. DOCS has a range of requirements including the provision of indoor and outdoor facilities and equipment.

Operators are required to obtain development consent from Council prior to applying to DOCS for a licence. The DOCS requirement is separate from the approval processes under the Environmental Planning and Assessment (EPA) Act, 1979.

**Discussion**

In May, 2006, the Southern Sydney Regional Organisation of Councils (SSROC) endorsed a Discussion Paper on Planning Requirements for Child Care Centres. It identifies characteristics of child care centres which work well as well as common locational requirements. It sets out options for Councils based on an analysis of these common issues and other SSROC members’ DCPs.

The discussion paper does not recommend either a checklist, policy or DCP format. It merely informs member Councils of the range of approaches, the merits of which are discussed below. The discussion paper has been used as a basis for the subject draft policy and the recommendation of this report.

The following compares the relative merits of various approaches to guiding child care centre developments.
1. Checklist:

A checklist provides a succinct approach to assist applicants. However, it is not a statutory instrument. In addition, it is regarded as a procedural rather than a planning/assessment tool.

2. Policy:

A policy is based on principles and guidelines and indicates Council’s intention and desired outcomes. It can be prepared more quickly than a DCP which would require compliance with various provisions of the EPA Act and Regulation. This also includes a mandatory public exhibition process.

3. DCP:

Preparation of a DCP is slower than the above two options and requires public consultation. However, it carries more weight than the above two options under the EPA Act, 1979. Given the relatively small number of child care centre DAs received in the past and likely in the future, this option is not considered warranted.

The recent planning reforms will reduce the number of DCPs applying to a site. It is expected Council will review its DCPs when preparing a comprehensive LEP, at which time it may be useful to include child care centres as part of a comprehensive DCP. In view of the above, it would seem prudent to proceed with a policy format.

The attached policy covers all of the issues in the Notice of Motion. It addresses the key elements for the establishment of child care centres including locational requirements, traffic, parking and safety, as well as, amenity and privacy.

FINANCIAL IMPACT STATEMENT:

The financial costs are minimal. This includes the equivalent of two weeks staff time, and preparation and printing costs, estimated at $2,000. If the policy is exhibited, additional equivalent staff time and costs would be required. This has been covered by the current Strategic Planning budget.

CONCLUSION:

During the preparation of the draft policy, the Mayor and Council officers met with a number of residents with an interest in this subject and with experience in the child care industry. The draft policy was referred to them for comments which have been addressed and incorporated. The residents also expressed support for the draft policy and its contents.

A child care centres policy provides principles and guidelines for the assessment of DAs. It is also a useful guide for applicants and the community. Upon endorsement, the policy will be applied to all new DAs.
RECOMMENDATION:

That:

a) the attached Child Care Centres Policy be endorsed; and

b) the public be notified of the Council resolution in relation to this matter.

ATTACHMENT/S:

A. Resolution 106 - Health Building & Planning Committee 13 June 2006
B. Draft Child Care Centres Policy.

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SIMA TRUUVERT                               JANE FLANAGAN
DIRECTOR, CITY PLANNING                      STRATEGIC PLANNER
ORDINARY COUNCIL MEETING
TUESDAY, 18th APRIL, 2006

12. MOTIONS PURSUANT TO NOTICE.

12.1 MOTION BY COUNCILLOR TRACI EY – NEW CHILDCARE CENTRES POLICY. (F2005/00357 xr F2005/00171)

RESOLUTION: (Notley-Smith/Matson) that the Director of City Planning prepare a report on the proposal put forward by Cr Tracey in his Motion Pursuant to Notice.

MOTION: (Tracey/Andrews) 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, maximises 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. LOST.

**MOTION:** (Notley-Smith/Matson) **CARRIED – SEE RESOLUTION.**
DRAFT

CHILD CARE CENTRES

POLICY
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1. INTRODUCTION

Council encourages the establishment of high quality child care centres in appropriate locations in Randwick City. This policy applies to the construction, use and operation of child care centres.

The policy contains guidelines for the location and design of child care centres. It is intended for use by applicants and Council assessment officers. It will also assist community understanding of Council’s requirements.

2. AIMS

The aims of this policy are:

a) to guide the location and design of child care centres in order to minimise environmental and social impacts;

b) to encourage centres with high levels of safety, security, environmental health and amenity; and

c) to provide a clear and concise document which guides applicants and the community on child care centre provision.

3. WHAT IS A CHILD CARE CENTRE?

Randwick LEP defines a child care centre as follows:

“a building or place used for the purpose of supervising or caring for children which:

(a) caters for more than 5 children who have not reached the compulsory school-age (as defined in the Education Act 1990), whether or not those children are related to the owner or operator of the building or place, and

(b) may be used for education, and

(c) may operate for the purpose of gain, but does not include a building or place providing residential care for those children.”

4. LEGISLATIVE CONTEXT

NSW Department of Community Services

The NSW Department of Community Services (DOCS) administers legislation* relevant to the establishment and operation of child care centres. It licenses child care centres and checks their legislative compliance.

Development applications (DAs) lodged with Council for child care centres must comply with DOCS’ legislative requirements. Applicants must submit a signed statement or checklist to Council verifying compliance with DOCS’ requirements.

* NSW Children and Young Person’s (Care and Protection) Act 1998.
The signed statement should be submitted with a DA to the following effect:

"The building will be constructed/adapted in accordance with the NSW Children and Young Persons’ (Care and Protection) Act 1998, and the NSW Children’s’ Services Regulation 2004."

Note: The above statement will be a condition of consent if a DA is approved.

Annexure A contains a list of DOCS’ facilities and equipment requirements based on the NSW Children’s’ Services Regulation (the “Regulation”). It is intended as a guide only to the key requirements. It can be used by applicants and Council assessment officers for the purpose of checking whether a proposal satisfies the legislation.

However, applicants should refer to the current Regulation for a complete and detailed list of equipment standards and service requirements.

The Building Code of Australia

Proposals for child care centres must comply with the Building Code of Australia (BCA) requirements for Class 9b buildings. This will be assessed when an applicant applies for a Construction Certificate.

The BCA addresses structural, fire safety, disabled access and other matters. In some cases, buildings may require fire upgrading to comply with the building classification. Applicants may be required to submit reports from BCA/fire safety consultants.

Randwick Council – plans, policies and guidelines

Applicants are required to lodge a DA with Council. The following documents must form part of a DA*:

- A statement of environmental effects;
- Statement of compliance with DOCS requirements;
- Traffic and parking study;
- Acoustic report; and
- Child care centre plan of management.

* Applicants should also consult The Randwick DA Guide for a comprehensive list of requirements.

Applicants should check the requirements of Randwick Local Environmental Plan (LEP) 1998, Development Control Plans and any relevant policies when preparing a DA.

Note: Applicants should also check any relevant state government planning policies.

The flowchart at Annexure B outlines the legislative process for establishing a new children’s service.
The following flowchart outlines the steps in the DA process:

5. DATE OF APPROVAL AND COMMENCEMENT

This policy was adopted by Council on .........., 2006, and shall take effect from.............., 2006.

6. LAND COVERED BY THIS POLICY

This policy applies to all land within the Randwick Local Government Area.

7. PLANNING, LOCATION AND DESIGN OF CHILD CARE CENTRES

Generally, when selecting a site the impacts of the following issues on a child care centre should be considered:

- Site characteristics, for example, aspect, drainage, topography;
- Nature of the area, for example, residential, commercial, industrial or other;
- Access via public and private transport; and
- Other children’s services nearby.
**General locational preferences**

Randwick LEP permits child care centres with development consent in the following land use zones in Randwick City:

- All Residential and Business zones;
- 4A General Industrial zone;
- Special Use zone; and
- Open Space zones.

Development proposals are subject to the zone development standards for height, floor space ratio and landscaped area.

An acceptable location for a child care centre depends upon a variety of factors. Key factors include vehicle movements, sight distances and traffic calming measures to ensure pedestrian safety.

Consideration should be given to co-locating child care centres with other facilities to reduce trip generation. There is likely to be parking in these locations, and less likely to be neighbourhood impacts.

**Preferred locations for child care centres include:**

- Co-located with schools, churches and other community facilities;
- Within or close to commercial/town centres/major employers, for example, hospitals;
- Purpose-built buildings;
- Large corner sites;
- Near public transport;
- In/adjacent to open space where parking facilities already provided; and
- Within detached buildings on large, accessible sites, rather than semi-detached dwellings, dual occupancies or residential flat buildings.

Some locations are unsuitable for child care centres. This may be due to difficult locations and site characteristics, for example, vehicular and pedestrian access, and topography.

Site selection will need to consider vehicular access, parking, safety issues and the nature of surrounding development. It will also depend upon the design and size of a child care centre. Thus, the following list of potentially unsuitable sites is general only.

**Child care centres should generally not be located:**

- On narrow or one way roads or cul de sacs;
- Near electromagnetic radiation (for example, mobile phone towers);
- Near LPG tanks;
- Where there are unsatisfactory on-street parking/traffic conditions or restrictions (for example, on bus stops, no standing areas, unsafe traffic volumes or with poor sight distances); and
- Steep sites due to access and safety issues.
Site area

Larger sites are suitable for child care centres as they provide greater options for on-site parking and vehicular circulation. Subject to a proposal satisfying all other requirements of this policy, the following site area requirements should be complied with as a minimum.

The following criteria are based on the Regulation. They are meant as a general guide only. Applicants should confirm these figures with DOCS.

Applicants are required to illustrate provision of the required areas below on plans lodged with a DA. The areas exclude space required for parking and vehicular circulation, waste, storage, landscaping, as well as, utility areas within a building.

<table>
<thead>
<tr>
<th>Indoor space</th>
<th>0-6 years old</th>
<th>3.25m² per licensed child space of unencumbered space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outdoor space</td>
<td>0-6 years old</td>
<td>7m² per licensed child space of useable outdoor space</td>
</tr>
</tbody>
</table>

Parking and pedestrian safety

Applicants should refer to the current Randwick Car Parking Development Control Plan (DCP) for details of minimum parking and vehicular requirements. The DCP requires 1 on-site parking space per 2 staff members in attendance and, adequate space for the drop off and pick up of children.

The suitability of sites for on-site parking and drive through depends upon streetscape impacts and resultant traffic management benefits. Generally, suitable situations for on-site parking and drive through arrangements are non-residential zones, corner sites, sites with double street frontages, and those on high traffic volume streets. Where it is to be provided, the arrangement must be safe and ensure entry and exit in a forward direction.

While parking and drop off space should be provided on the site, Council may consider a reduction in on-site parking requirements for the following sites:

- In proximity to public transport;
- In proximity to or, co-located with other trip generators, for example, shops, neighbourhood centres, schools, car parks or, other places likely to otherwise generate extra trips; and/or
- Where there is adequate on-street parking.

Although the Car Parking DCP does not contain additional requirements, the following list of preferred parking and vehicular access arrangements provides a guide:

- Stack parking will be considered for a maximum of two spaces;
- If inadequate on-street parking, adequate on-site space for set down and pick up of children;
□ If on-site set down provided, entry and exit to be separated and safe pedestrian access;
□ Vehicles to be driven in forward direction onto and off the site;
□ Street immediately in front of child care centre may be used for up to 10 minute parking for 2 hours during a.m. and p.m. weekday peaks;
□ Minimum 1 metre landscaped strip on front boundary if on-site parking/drive-through provided;
□ Driveway minimum 1 metre setback from side boundaries;
□ On-site parking/drive-through not to detract from the streetscape or footpath/pedestrian safety;
□ Adequate sight distances and traffic calming measures to ensure pedestrian safety; and
□ Driveway footpath crossing maximum 9m from intersection (for corner sites).

Note: Applicants need to discuss their proposal with Council staff in relation to the suitability and capacity of a site to accommodate parking and traffic movements safely.

**Built form and scale**

Applicants are required to comply with provisions in Randwick LEP, and the relevant provisions of DCPs such as landscaped area, floor space ratio and height.

New buildings or proposals to convert existing buildings to child care centres should:

□ Integrate with the character of the existing streetscape and built form, for example, the design of proposals located in residential areas should be consistent with the prevailing streetscape and built form; and
□ Generally be for ground floor accommodation only, especially for 0-2 year olds.

**Amenity and privacy**

□ Orientation of the building should preserve the visual and acoustic amenity and privacy of adjacent properties;
□ The location of open spaces, playground areas and balconies/terraces accessible by children should be designed to minimise direct views to, or from adjacent properties; and
□ An acoustic report is required to be submitted with an application.

**Outdoor spaces**

□ Locate, where practicable, to the north or north eastern side of the building;
□ Locate away from the main entrance, car parking area or vehicle circulation areas;
□ Provide adequate separation from the living/bedroom windows of surrounding dwellings in residential locations;
□ Design and layout should maximise clear sight lines to the main indoor play areas of the child care centre;
□ Easily accessible from main indoor spaces;
□ At least one half to be unencumbered and available for vigorous play; and include a variety of surfaces, for example, grass, sand, hard paving and mounding; and
□ Adequate storage area for garbage and recycling bins.

**Landscaping and shading**

□ Provide adequate shading and landscaping in a combination of artificial and natural forms, for example, shade sails and native vegetation.

**Indoor spaces**

□ Recommended north-north east aspect;
□ Provide play areas adjacent to outdoor play areas to facilitate easy supervision;
□ Toilets should be easily accessible from play rooms and adjacent to outdoor play areas; and
□ Provide good ventilation.

8. **HOW TO GET ADVICE**

Please contact Council for further assistance on child care centre proposals and how to use this policy:

- Customer Service Centre on 9399 0885;
- Strategic Planning Division on 9399 0992.

Or, visit Council at its administrative building on Frances Street, Randwick during business hours.

9. **FURTHER INFORMATION & USEFUL RESOURCES**

Further information is available primarily from the NSW Department of Community Services (www.community.nsw.gov.au or telephone 9716 2222) and the Commonwealth Department of Family and Community Services. A range of documents are available either from the departments directly or, from the NSW Government Information Services Bookshop.

Lady Gowrie Child Centre and the Community Child Care Co-op provide support services to child care centres, including information, advice, consultancy, training and resources. These include:

1. The Licensing Process for Establishing a New Centre Based Child Care Service in NSW.

3. **Family Day Care and Home Based Child Care Services Regulations 1996.**

4. **Children’s Services Regulation 2004.**

5. **Children (Care & Protection) Act 1987.**

6. **Children and Young Persons (Care and Protection) Act 1998.**

7. "Best Practice Guidelines in Early Childhood Physical Environments".

8. "Design and Planning Checklist for Building plans".

9. "Furniture and Play Equipment Checklist for Child Care Centres".


ANNEXURES

Annexure A – NSW Department of Community Services – facilities and equipment requirements

The following list of requirements is based on the Regulation. It is intended as a guide only. Please refer to the current Regulation for a complete and detailed list of equipment standards and service requirements.

- Space requirements
- Laundry
- Craft preparation facilities
- Food preparation facilities
- Toilet and Washing Facilities
- Nappy Change Facilities
- Sleeping Facilities
- Storage Facilities
- Pools
- Telephone
- Development and play equipment
- First aid
- Fire safety
- Ventilation, lighting and heating
- Hot water
- Fencing
- Glass
- Cleanliness, maintenance and repairs
Annexure B - Flowchart for establishing a new children’s service

Flow chart for establishing a new children’s service

Local government related

1. Prepare Development Consent application

2. Submit Development Application to Council

3. Council issues development consent certificate

4. Prepare licence application

5. Submit application to DoCS

6. DoCS assesses application

7. DoCS carries out criminal history check

8. Recruit authorised supervisor

9. DoCS makes assessment and conducts criminal history check on supervisor


DoCS related

13. DoCS issues licence

Licencee opens service

This chart shows the steps to successful completion of an application, although you may need to re-apply if, at any point in the process, the documentation is incomplete or DoCS checks/visits identify problems.
**Director, City Planning Report 50/2006**

<table>
<thead>
<tr>
<th>SUBJECT:</th>
<th>ESTABLISHMENT OF AN INDEPENDENT HEARING AND ASSESSMENT PANEL (IHAP)</th>
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<tr>
<td>DATE:</td>
<td>29 May, 2006</td>
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<td>FILE NO:</td>
<td>F2004/07960</td>
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**REPORT BY:** DIRECTOR, CITY PLANNING

**INTRODUCTION:**

Council at its Ordinary meeting held on 24 May 2005 resolved that it:

**RESOLUTION: (Notley-Smith/Hughes)**

(a) recognises the potential or perceived corrupting effect of campaign donations from development interests to parties and candidates for council elections;

(b) believes changes to the Local Government Act are necessary in order to ban such donations in future; and delegates authority to the General Manager to write to the Minister for Local Government and to the Premier to inform them of Council’s position and requesting the Local Government Act be amended before the Council elections in 2008 to ban developer donations,

(c) in the interim, requests all individual councillors who have accepted donations from corporations and individuals with property development interests, or councillors who represent a state party that has passed on to them donations from corporations and individuals with property development interests, to declare the details and extent of those donations and to absent themselves from any vote where those donors will receive a benefit from the passing of a council resolution; and

(d) establishes a committee comprising the Mayor and a one representative of the Greens, Liberal and Labor parties to investigate and report back to Council no later than 11 April, 2006 on:

- the changes required to the New South Wales Local Government Act 1993 and other relevant legislation to achieve the objectives of this resolution, including addressing perceived conflicts of interest between Councillors and donors and seeking the Minister to issue a discussion paper on reforms to the Act that can include the prohibition of donations from corporations,
companies and other entities (including political parties) and permitting donations from individuals only to the maximum of $2,000 per year; that expenditure in cash and kind (except volunteers) on election campaigns for local government be capped at a maximum of $1 per enrolled vote in a candidate’s Council Ward (or local government area if wards do not exist);

- adopt any changes to Council’s Code of Conduct and Code of Meeting Practice which would enable implementation of the objects of this resolution as interim measures;

(e) prepare and bring a report back to an Ordinary Council meeting on the introduction of Independent Assessment Panels for Randwick City Council; and

(f) note the ICAC Commissioner Irene Moss’ recommendation that Councillors do not caucus on development applications before them.

In order to address the issue of perceived bias towards either applicants or objectors in development application process, one of the key actions contained in the above resolution is to investigate the introduction of an Independent Hearing and Assessment Panel.

ICAC has recently released a discussion paper that identifies the main corruption risk areas for consent authorities and public officials during the development approval process. The discussion paper recognises the conflicting roles for Councillors as representatives of their constituents and that of an impartial decision maker and identifies the NSW IHAP model as “having the potential to reduce the involvement of Councillors in individual development matters and acts as a counterbalance to the perceptions of bias decision making by Councillors.

Mr Stuart McDonald of SJB Planning Pty Ltd was engaged by Council to prepare a report (copy attached) exploring the evolution, role and operation of IHAPs and to examine the applicability to Randwick of introducing a panel. The full scope of work covered by the report is outlined below:

- An overview and brief examination of the evolution and role of IHAPs;

- A review of existing IHAP operations at selected Councils, particularly those that may operate both a SEPP 65 panel and an IHAP, including details of:
  - Cost and resourcing requirements, fees that may be charged etc.
  - Panel make-up and skill base, selection, code of conduct and probity
  - Application types considered appropriate for panel consideration
  - Impact on DA processing times
  - Assistance with conflict resolution
  - Impact on role and input of Councillors

- Consider the pros and cons and applicability to Randwick, taking into account:
  - The current staff delegations for determination of applications
  - The current operation of the SEPP 65 Review Panel and the possibility to operate with one panel covering both design and review functions
- The Council’s Code of Meeting Practice that allows Councillors to “call” DAs
- Current accepted best practice for DA processing
- The approach and attitude of State Government (Departments of Planning & Local Government) to the general concept.

The report concludes that the establishment of an IHAP will provide increased opportunities for objectors and applicants to participate in the development assessment process in a less formal forum than currently exists with the existing Council and Committee meetings, and will allow greater transparency and accountability in decision making by providing a second level of independent expert advice to the elected Council.

ISSUES:

What Is An IHAP?

An IHAP is a panel of consultants who have expertise in the Law, Town Planning, Architecture, and Urban Design, and who in conjunction with a community representative provide an independent assessment of particular development applications and planning policies and submit a recommendation to Council for a decision.

Importantly they also provide the opportunity for objectors and applicants to present their cases to an independent body and in doing so hopefully will come away with an increased sense of involvement in the outcomes of the assessment process.

The role and objectives of an Independent Hearing and Assessment Panel

Mr McDonald reviewed a number of IHAPs operating in the Sydney metropolitan area and has provided the following observations in relation to the role and objectives of an IHAP:

IHAPs are generally established by Councils to ensure that DAs that are complex, either as a result of the technical issues involved and/or some legitimate community concern, are submitted to a rigorous and transparent public process and to allow Councillors to focus on strategic issues of policy development rather than the process of individual DAs.

In NSW, the panels do not have a delegated decision making role in relation to DAs. They exist to provide independent, specialist advice to Councils. They generally operate to review professional officers’ development assessment reports, and carry out the review having heard from objectors and applicants, as well as information provided by council officers. They generally also visit the DA sites and may visit objectors’ properties, depending on the relevant issues.

The panel’s review is based on each individual panel member’s professional knowledge and interpretation of the policy and statutory context for the particular application.

The attached report contains a table summarising the various charters and objectives of the existing IHAPS for Warringah, Sutherland, Fairfield and Liverpool. The largely common objectives and functions can be summarised as:
• to provide a forum for objectors and applicants and an increased sense of stakeholder involvement in the outcomes
• to provide increased transparency and accountability
• to undertake an independent assessment
• to make recommendations to the Council

Some objectives and functions that are not necessarily shared across the 4 IHAPs but are worthy of mention, are:

• to suggest policy changes in relation to planning controls
• to consider rezoning applications
• to free up council and committee meetings to enable concentration on strategic planning and policy issues
• to reduce the number of appeals to the Land and Environment Court

It is worth noting roles and responsibilities that are not undertaken by IHAPs:

• They do not act as the ‘Council’ or as de-facto council officers – they are entirely independent
• They do not make decisions – they make recommendations
• They do not mediate between parties, although, through discussion and dialogue, they may seek to find common ground and a way forward
• Their purpose is not to achieve consensus

The role of Councillors with an IHAP

In relation to the role of Councillors with an IHAP, Mr McDonald provides the following comments:

The principal role of Councillors is to assist in the establishment and objectives of any panel and then to consider performance and achievement.

There are no Councillors at Liverpool and Warringah Councils, with administrators in place. In both cases the decision to introduce an IHAP and the successful implementation of the panel preceded the appointment of the administrators.

At the 2 Councils (Sutherland and Fairfield) with Councillors, where panels operate, Councillors have no official role whatever.

At Fairfield, Councillors may attend and address the panel only as an applicant or objector, or on behalf of applicants and objectors, but not in their capacity as a Councillor.

At Sutherland Councillors may attend the public sessions of the meetings as observers and may only address the panel if they have declared an interest in a matter and are speaking as a ‘resident’.

At both Fairfield and Sutherland, Councillors receive the recommendations and minutes of the IHAP meeting when the relevant committee meeting agenda is circulated.
As is clear from the discussion above dealing with the evolution, role and objectives of IHAPs, the express purpose is to obtain independent objective advice and recommendations, for Councillors to then consider when determining matters. Any involvement of Councillors in the operation of an IHAP or the panel meetings would defeat this purpose. At the end of the day, Councillors will remain the determining authority for these applications and can choose to accept or reject the IHAP recommendations. It would be inappropriate if Councillors, in their role as Councillors (as opposed to being a resident expressing a view) to have any involvement.

Discussions with the chair of the Warringah, Liverpool and Fairfield IHAPs have confirmed no involvement with Councillors relating to either individual DAs or the operation of the panel.

While Councillors have no role in the operation and recommendations of the panel, they may have a role in some of the following areas:

- establishment of terms of reference or objectives of the panel;
- establishment of the nature of applicants to be referred to the panel;
- the panel membership;
- consider review reports on the operation and performance of the panel, including reaction and response from applicant and objectors.

They may also choose to refer major policy and rezoning matters to the IHAP for independent review and advice.

Comment:

Councillors have a statutory obligation to fulfil dual roles as policy makers as well as acting as the consent authority for development applications and as a result are forced into conflicting roles as representatives for their constituents and that of impartial decision maker. At the heart of this issue is the question of what kind of people are best placed to make decisions on development applications, and what structures are needed in order to safeguard the community against inappropriate decision making. It is noted that in certain planning systems such as in the state of South Australia the development control system is vested in a separate and independent commission to that arm of government responsible for the formulation of planning policy. This approach assumes that the processing of a development application is essentially an administrative task interpreting written policy.

Consistent with this approach, and in order to address the issue of perceived bias towards either applicants or objectors in the development application process, Council may wish to delegate the determination of IHAP matters to the General Manager whilst still retaining the power to call up applications to Council after an IHAP recommendation if the application is one of significant community interest or a matter that would impact on Council policy.

Applications considered
The nature of applications considered by IHAPs varies across the 4 councils. Each council determines the criteria for referral of matters to the IHAP.

The establishment of IHAPs has generally been for the purpose of referring applications that would otherwise have been referred to the relevant Council committee, to the IHAP, in the first instance – and then to the committee/Council for determination. Essentially this amounts to an additional step in the assessment process.

The purpose has not been to alter staff delegations to determine matters, or to alter established processes, other than this one additional step – matters that would, prior to the introduction on an IHAP, have been considered by committee/Council, now go to IHAP on route to that committee/Council.

Ultimately it will be a matter for the Council to determine the category of applications that are referred to a prospective IHAP. If the Council were to follow the approach generally taken at the existing IHAP Councils, it would retain the current staff delegations and refer only those matters that are currently reported to the Health, Building and Planning Committee (and that would continue to be reported to that Committee).

Based on the existing staff delegations this would mean that:

- any DA over the value of $2 million, and
- any DA “called” by 3 or more Councillors

would go firstly to the IHAP and then to the Committee.

Assuming this to be the case, the IHAP would be likely to consider a similar number of applications as is currently experienced by the existing Committee. Council officers have advised that the relevant Committee considers, on average, approximately 6-8 applications per committee meeting over the course of a calendar year, based on the current monthly cycle. During 2005 there will occur 11 committee meetings, so in future a similar number of IHAP meetings could be anticipated.

As stated above, in the event that the Council wishes to proceed with the introduction of an IHAP, it will be required to make a clear decision on the nature of applications to be considered by the panel. If the Council is satisfied with the current level of delegation given to senior staff to determine applications then it would be logical to maintain current practice, resulting in DA’s over $2 million or called by 3 Councillors going to the IHAP.

Given that one of the major objectives of an IHAP is to increase transparency in decision making it would be prudent for the Council to add the following additional categories of application for IHAP consideration, consistent with the approach taken elsewhere:

- all Council’s own applications or proposed on Council land, unless determined by the General Manager to be routine and insignificant;
- all applications involving a councillor as applicant or owner;
- all applications where a Council officer is applicant or owner.
In addition, it would be appropriate that the Director have the authority to refer any significant or controversial application to the IHAP.

The decision regarding matters to be referred to the IHAP may have implications for DA processing times. If the Council were to continue with the current officer delegations, then the IHAP would deal with roughly the same number of applications as currently experienced by the Health, Building and Planning Committee. Assuming also that the IHAP meetings were to be accommodated within the existing meeting cycle, allowing IHAP matters to then go straight to Committee, then introducing this extra step would not in itself affect processing times. If additional matters were to be referred to the IHAP, resulting in fewer matters being dealt with under officer delegation, then processing times may be negatively impacted.

Comment:

Should Council’s current delegation of authority in relation to the determination of DAs be retained an IHAP would consider approximately 100 applications per year which equates to about 7% of the total applications (DA, S96 etc) received by Council on a yearly basis. Out of the total DAs determined by the elected Council in 2004 & 2005, 47 related to development with an estimated cost of greater than $2 million whilst 97 were called up by Councillors. Whilst the schedule of IHAP meetings could be accommodated with the Council and Committee meeting schedule, the introduction of an additional step in the process and consideration of the application by Council it is likely that the processing time for these application would be increased.

In view of the NSW State government’s renewed focus on the fast tracking of major development emphasis must be given to ensuring that the process is as efficient and streamlined as possible. As such, the potential to delegate the determination of IHAP matters to the General Manager should be considered.

Panel Composition

Mr McDonald has provided the following observations and comments in relation to the composition of an IHAP:

All four of the existing local government panels are made up of 4 panel members, although these may come from a pool of panellists. They are made up of professional members with the following areas of expertise:

<table>
<thead>
<tr>
<th>Fairfield</th>
<th>Liverpool</th>
<th>Sutherland</th>
<th>Warringah</th>
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<tbody>
<tr>
<td>1 Law</td>
<td>1 Law</td>
<td>1 Law</td>
<td>3 from any of the disciplines of law, urban design, town planning, architecture or the environment</td>
</tr>
<tr>
<td>1 Architecture</td>
<td>1 Urban design</td>
<td>1 Urban design or architecture</td>
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<tr>
<td>1 Environment</td>
<td>1 Environment/Planning</td>
<td>1 Environment or social science</td>
<td>1 Community rep. from a pool of 4</td>
</tr>
<tr>
<td>1 Community rep.</td>
<td>1 Community rep.</td>
<td>1 Community rep. from a pool of 4</td>
<td>1 Community rep. from a pool of 4</td>
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</tbody>
</table>
In considering the establishment of an IHAP at Canterbury City Council, the relevant report (Director Corporate and Community Service 28 June 2005) stated:

“It is further recommended that unlike IHAPs established elsewhere, there be no “community representative” on Canterbury’s Panel. This is because it is felt unnecessary to make provision on the Panel to duplicate the perspective of an elected representative (which is what a “community representative” would be intended to provide), given that IHAP is not to be empowered to make determinations on the matters that come before it; instead it will be empowered merely to make recommendations to the City Development Committee for the Committee itself to make such a determination. In applying Council adopted policies and Codes, which themselves represent expressions of community perspective on development matters the IHAP is essentially provided with the type of perspective on its deliberations intended to be given by a community representative. For these reasons, and because it is the expert, “professional technical” views of the IHAP that is being sought by Council in establishing such a Panel, (and not the possibly democratically-unrepresentative view about the “community effect” of a particular development proposal from a non-elected person), it is considered a community representative on Council’s Panel is unnecessary.”

Note that Canterbury City Council have yet to establish a panel or determine the make up of the panel, so the final constitution is unknown.

The role of Chairperson varies across the Councils. In the case of Sutherland any one of the independent specialists may chair, although in practice there are 2 rotating Chairpersons. In the cases of Fairfield and Liverpool it is usually the lawyer who chairs. At Warringah the lawyer is the chair unless absent.

Waverley Council are proposing a panel along the lines established at the existing 4 Councils.

The constitution of a quorum varies across the Councils. At Fairfield a minimum of 2 members forms a quorum. At Sutherland and Warringah the minimum is 3. At Liverpool the minimum requirement is for the 3 specialist members.

In Randwick’s case it would make sense to be guided by the apparent success of the established panels. The intent would be to ensure an appropriate skill set to deal with the major technical issues likely to require examination. These are:

- external appearance, design, scale, relationship to streetscape, neighbouring properties, etc;
- external environmental impacts such as privacy, solar access, scale;
- numerical and performance based compliance with planning controls and objectives;
- validity and relevance of any objections received and implications for the application and objecting property;
- the overall suitability, balancing all matters to be considered under section 79C of the EP & A Act.
Professionals with experience in the fields of architecture, urban design, town planning, social planning and environmental science would be appropriate. While strict legal interpretation may not be regularly required, the skills and experience in interpreting policies and controls and weighing up, balancing and judging conflicting opinions and outcomes are attributes that would favour the inclusion of an appropriately experienced lawyer(s) and/or senior public official (other than existing local government) on the panel.

The possible inclusion of a community representative (or pool of reps to draw upon) raises arguments for and against. As mentioned earlier, the suggestion made at Canterbury Council is that this function is met by the role of Councillors when they meet at Committee. On the other hand, Councillors would not benefit from hearing all of the discussion and points of view that influence the panel recommendation.

On balance, it would seem appropriate to have a local perspective and point of view, helping to balance the technical skills. The existence of a local resident may also assist with the atmosphere of relative informality at the panel meetings and with objectors feeling they are receiving a more open and objective hearing.

The panel composition has some potential implications relating to the relationship with the existing Randwick/Waverley Design Review Panel, discussed below.

Relationship to SEPP 65 Design Review Panel

Mr McDonald has provided the following comments in relation to the potential amalgamation of the SEPP 65 Design Review Panel with an IHAP:

Randwick and Waverley Councils operate a joint SEPP 65 Design Review Panel. This panel contains persons with expertise in the areas of urban design, architecture, heritage and town planning. While it may be ideal, in the event that Randwick proceeds with an IHAP, to try and achieve some efficiencies, the respective roles of the 2 panels need to be considered.

The Design Review Panel plays a role very early in the life of a DA, sometimes even prior to lodgement, in the form of pre-DA advice, providing guidance on concepts. The applications dealt with are only residential flat building of 3 or more storeys – the matters covered by SEPP 65.

Once lodged, DA’s are referred to the panel almost immediately following public exhibition, in order that advice can be provided to the applicant within weeks of lodgement. This ensures that the applicant is in the picture, either well before, or at least very soon after lodgement. They do not wait for a full officer assessment to occur before being told of necessary changes.

An IHAP has a very different role. The IHAP deals with any relevant application, not just 3 or more storey residential flat buildings. It also comes into the equation very near the end of the overall assessment process, once the officers have undertaken their Section 79C assessment, and assuming various design changes (identified by either officers and/or a design review panel) have been nominated, if not necessarily incorporated. The
IHAP is considering and reviewing all relevant matters required to be considered in the merit assessment of a DA, not exclusively design issues.

Sutherland Council operates with both a design review panel and an IHAP. There is no use of panel members from the design panel on the IHAP. Council officers’ views were that, because of the different roles and timing, it is not possible to combine the two panels. When questioned regarding the double-up of design advice/assessment between the two panels, Council officer advice was that there have been no instances of conflicting advice, and if anything the IHAP reinforced the design panel advice, particularly in instances where the applicant had not followed that advice.

Warringah does not have a design review panel, but has on occasions used the urban design/architecture expertise on the panel to provide design review and advice on particular DA’s early in the process, rather than wait until a full IHAP meeting.

In discussing the issue with the Chairperson of the Warringah, Liverpool and Fairfield IHAPs, the view was expressed that the provision of specific design advice early in the assessment process, rather than relying on the full IHAP to provide an opinion, has merit, and the possible use of the design skills inherent on the IHAP, is worth considering.

Balanced against these ideas, is the overall concept of the IHAP, to independently and objectively review all of the information relating to a DA (or any other rezoning or policy matter that may be within their charter to consider). Panel members providing design advice and then sitting in judgement potentially raises some of the same conflicts that the IHAP is trying to overcome when Councillors consider matters.

On balance, it would seem difficult to integrate the two roles into a single panel.

**Summary of pros and cons**

The pros and cons associated with IHAPs as identified in Mr McDonalds report are as follows:

**Pros**

- Reduces Councillor competing interest of decision maker and community advocate
- Reduces the possible negative perception of ‘political’ rather than merit based decisions
- Maintains the Councillors as the decision makers
- Provides an opportunity for Councillors to concentrate more on strategic matters and policy setting at Committee meetings
- Can be introduced with minimal changes to existing Committee/Council meeting procedures and cycle
- If introduced to fit in established meeting cycle then processing times not particularly affected
- Additional level of expert assessment and advice
- Opportunity for all objector and applicant input
- Less formal process and forum
- Ensures every matter that comes to Committee/Council has been the subject of an independent site inspection
• Potentially reduces planning appeals and associated costs
• Potential cost savings in other areas, such as mediation, length of Committee meetings
• Due to the more open and thorough review process, compared to the existing Committee procedures, can act as a form of alternative dispute resolution
• Potential to integrate with Design Review Panel
• Lack of a set model allows moulding to suit individual Council needs

Cons

• Perception of a reduced role for Councillors
• Additional direct costs that cannot be directly recouped
• Additional indirect costs such as heavy administrative workload
• Overall net cost to the Council
• Can add confusion about the process – sometimes requires considerable explanation to applicants and objectors
• No industry wide model or structure
• Potential differences in policy interpretation between Council experts and IHAP
• Potential increase in DA determination times, depending on the cycle and frequency of meetings
• Any lack of integration with the Design Review Panel may result in conflicting expert views on design issues

As stated earlier, achieving some of the potential advantages offered by an IHAP would be possible through other means. For example, conducting site inspections for all Committee matters could occur. Secondly, the opportunity for every applicant and objector to address the Committee could also occur. The introduction of such measures would no doubt significantly increase the length of Committee meetings and place an additional burden on Councillors, particularly all matters being the subject of site inspections in the company of applicants and objectors.

On the other hand, the advantages of a professional ‘second opinion’ and the ‘depoliticising’ of the process would not be achieved.

FINANCIAL IMPACT STATEMENT:

Mr McDonald has provided the following assessment of the likely costs of establishing and operating an IHAP:

The external operational costs vary from Council to Council and are a function of the remuneration to panel members and length and frequency of meetings.

Sutherland has an annual budget of $100,000, covering the costs of the panel members. This does not take into account the administrative and staff costs. Canterbury estimates the cost of the panel at $60,000/annum, with administrative support costs to be an additional $70,000/annum – including the recruitment of necessary full-time admin support.
Warringah have advised that the cost of operating their panel to be in the order of $60,000 - $100,000 per annum, including scheduling 2 meetings per month when required.

Waverley Council has estimated the annual cost to be in the order of $80,000 - $100,000, depending on the need to hold more than one meeting per month.

While there are savings acknowledged by each of the Councils, these have not been quantified. These savings may arise from:

- Reduction in length of committee meetings;
- Reduction in conflict resolution, particularly mediation;
- Reduction in appeals to Court.

On the last matter, reduction in appeals, Sutherland estimate a 50% reduction in the number of appeals and associated costs since the introduction of the panel. If this were to be repeated at Randwick, this would result in a saving in the order of $100,000/annum (based on current estimated expenditure of $200,000).

Although the amounts differ from Council to Council, Sutherland also differs in two ways. It pays its community representative at the same rate as the technical experts and all panel members are paid at an hourly rate.

The Chairperson of the panels at Warringah, Liverpool and Fairfield expressed the strong view that panel members are not adequately remunerated for their work.

The daily and hourly rates paid to the professional technical experts is, based on extensive market experience, relatively low. Hourly rates for senior experienced professionals are commonly $150 - $250/hour and more plus GST. For lawyers these rates are higher again.

Balanced against this is the relative assurance of regular work on an ongoing basis and the opportunity to participate and contribute to a high profile public process on behalf of a local community.

Given that the Sutherland and Warringah panels are the most recently established and have been able to attract suitable panel members, the rates paid by those Councils appears a fair indicator. Notwithstanding, their rates were established nearly 3 years ago. If Randwick were to proceed, professional hourly rates in the order of $120/hour plus GST covering all site inspection and meeting times, plus travel to and from meetings, would seem appropriate. An alternative way of expressing this may be in the order of $750 - $1000/meeting plus GST (assuming 7 hours covering site inspecting and meeting). The chair would receive additional payment for preparing minutes etc. It would be a matter for the Council to determine the level of remuneration for any community representatives, although the Sutherland philosophy of equitable payment does appear to have merit.
A general estimate of likely panel costs per meeting is $5500 - $6500. This covers all time spent on site inspections, panel meeting and reasonable travel time. It also allows for some loading for the additional functions associated with the role of Chairperson.

Annual costs would be in the order of an estimated $65,000-$70,000 for 11 panel meetings. If additional meetings are anticipated then the budget would need to reflect this.

The Council would also need to determine the capacity for the existing administration to meet the operational and administrative needs of the panel. Sutherland has absorbed this cost within the capacity of the exiting administration. Canterbury have indicated the need for an additional resource. One thing seems clear, a dedicated in-house coordinating position is needed. There may be scope to cover the administrative requirements of both the SEPP 65 panel and the IHAP, as occurs at Sutherland.

As stated earlier, quantifying any monetary savings has apparently proven difficult at the various Councils. Savings are assumed to occur due to:

- reduced costs resulting from shorter Committee meetings;
- reduced costs associated with mediation;
- reduced legal costs due to a reduction in appeals to the Land and Environment Court.

The extent to which these possible savings were to be realised would need to be monitored by the Council.

Councils do not have the legal capacity to charge applicants in order to recoup costs associated with an IHAP. Warringah have advised that they did introduce a fee of $3000 but this was dropped as it was considered illegal.

**CONCLUSION:**

In recent times there has been renewed support at the local, state and federal levels of government for the concept of independent panels of experts providing impartial technical advice in relation to the determination of development applications. An IHAP at Randwick would have the following specific benefits:

- Reduces Councillor conflict between decision maker and community advocate
- Reduces perception of political rather than merit based decisions
- Allows Councillors to concentrate more on policy
- Additional level of expert assessment and advice
- Allows input by objectors and applicant in a less formal forum

The IHAP models currently operating in the 4 metropolitan Councils have no delegated authority and their role is limited to making recommendations, thereby placing another step in the assessment process as the application is then considered by the elected Council. In order to expedite the determination of applications, delegation may be provided to the General Manager to determine applications in accordance with the IHAP recommendations. It is stressed that Councillors would still retain the opportunity to request that an application not be determined by the General Manager and be instead referred to Council.
Overall the establishment of an IHAP would appear to provide increased opportunities for applicants and objectors to participate in the development assessment process in a less formal forum that currently exists at Council Meetings and would allow greater transparency and accountability in decision making by providing a second level of independent expert advice to Councillors.

**RECOMMENDATION:**

That:

a) The Council proceed with the establishment of an IHAP for a trial period of 12 months;

b) a further report be presented for Councillors, including an appropriate “Charter” and requirements for the implementation of an IHAP. The report shall include details of the operational, administrative and procedural requirements associated with the IHAP and specifically address call up provisions for an application to be referred to a Council or Committee meeting.

**ATTACHMENT/S:**

Report by SJB Planning Pty Ltd dated January 2006

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SIMA TRUUVERT
DIRECTOR, CITY PLANNING

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KERRY KYRIACOU
MANAGER DEVELOPMENT ASSESSMENT
SJB Planning

Randwick City Council

Independent Hearing and Assessment Panel Review

January 2006
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1. Executive Summary

Independent Hearing and Assessment Panels (IHAPs) have operated in NSW since 1997. Panels currently operate at 4 Sydney Councils and the concept is being investigated at 3 Councils, including Randwick. IHAPs are also being implemented by the NSW Department of Planning to advise the Minister for Planning on a range of matters, including State Significant Development.

The core function of the panels operating in NSW local government is to consider and advise on the merits of development applications. The IHAPs do not determine applications – they make recommendations, with the final decision making responsibility retained by the Councils.

There is no uniform operating model for IHAPs. Those that currently operate share the same broad objectives and undertake similar functions. They also have some notable differences, particularly regarding the nature of applications that they consider.

Without a uniform operating model, the different IHAPs are inevitably a reflection of the existing operating environment of their respective Councils, both political and administrative.

There are pros and cons associated with the implementation and use of an IHAP, and balancing these pros and cons will vary from Council to Council, depending on the existing operating environment associated with the consideration and determination of development applications.

This report does not review the development application process at Randwick. It assumes that the Council is satisfied with the current procedures, and is considering the introduction of an IHAP in order to further enhance this process. Nonetheless, the value associated with the possible introduction of an IHAP is, at least in part, a function of the existing procedures, including levels of delegated authority provided to senior Council officers and the practice and procedures of the Health, Building and Planning Committee.

This report attempts to explore:

- all relevant issues associated with the operation of IHAPs;
- the current Randwick operating environment; and
- the pros and cons of an IHAP, given the operating environment at Randwick.

The report notes that while the introduction of an IHAP is one way, a proven way, of increasing stakeholder input into the process, increasing transparency in decision making and adding value to the quality of the final decision, it is not necessary the only way of achieving some of these outcomes. For example, one of the greatest advantages of an IHAP, as observed by the writer, and as advised by the Councils operating IHAPs, is the extensive opportunity for applicants and objectors to address panel members, both at site meetings and at panel meetings, free from the formality of Council Committee meetings.

This greater level of applicant and objector involvement and the use of site meetings could be introduced without the need for an IHAP. The Council could introduce these meetings at any time, with corresponding changes to meeting procedures etc., if it felt it were necessary and appropriate.

The report concludes that there is merit in the Council considering the introduction of an IHAP for selected development applications, principally because it would provide the opportunity for relevant stakeholders to have a greater input into the consideration and determination of major and controversial applications and also because of the benefits associated with receiving an independent professional 'second opinion'. This greater level of input would assist with demonstrating transparency in the process and may add to better decision making.
Based on the operation of existing IHAPs in Sydney, there is scope for such a panel to consider and advise on matters other than just selected DA’s, such as major rezonings, draft local environmental plans, policy initiatives etc.

If the Council wishes to proceed with the concept there are a number of operational and administrative matters that would need to be addressed and established. These are mentioned in the report.
2. Introduction

Randwick City Council has resolved to investigate the introduction of an Independent Assessment Panel (IAP) associated with the assessment of development applications.

IAPs exist at four Sydney Councils and their introduction is being investigated by at least 3 other Councils, including Randwick. In December 2005, Waverley Council resolved to implement an IAP for a twelve month trial period, likely to commence in July 2006.

This report discusses the evolution, role and operation of IAPs and examines the applicability to Randwick of introducing a panel. The full scope of work covered by the report is outlined below:

- An overview and brief examination of the evolution and role of IAPs;
- A review of existing IAP operations at selected Councils, particularly those that may operate both a SEPP 65 panel and an IAP, including details of:
  - Cost and resourcing requirements, fees that may be charged etc.
  - Panel make-up and skill base, selection, code of conduct and probity
  - Application types considered appropriate for panel consideration
  - Impact on DA processing times
  - Assistance with conflict resolution
  - Impact on role and input of Councillors
- Consider the pros and cons and applicability to Randwick, taking into account:
  - The current staff delegations for determination of applications
  - The current operation of the SEPP 65 Review Panel and the possibility to operate with one panel covering both design and review functions
  - The Council's Code of Meeting Practice that allows Councillors to "call" DAs
  - Current accepted best practice for DA processing
  - The approach and nature of the State Government (Departments of Planning & Local Government) to the general concept
- A summary of the advantages and disadvantages, in determining whether to proceed.

3. Consultation

During the preparation of this report consultation took place with the following organisations and people:

- Sutherland Shire Council IAP Chairperson and panel members
- Warringah Council IAP Chairperson
- Liverpool City Council IAP Chairperson
- Fairfield City Council IAP Chairperson
- Liverpool City Council Senior Development Planner and IAP coordinator
- Warringah Shire Council Manager Development Assessments
- Sutherland Shire Council Director Environmental Services and IAP Coordinator
- Waverley Council Director Planning and Environmental Services
- Fairfield City Council Area Planning Manager
- Canterbury City Council Manager Corporate Support
- P & A Walsh Consulting Pty Ltd
- NSW Department of Planning

Attendance at IAP hearings at Sutherland and Liverpool Councils also occurred.
4. Background – the path of development applications

It is not the purpose of this report to review the process for assessment and determination of development applications at Randwick City Council. Nonetheless, in order to review the possible introduction of an Independent Hearing and Assessment Panel – a potential major change to the existing process, it is necessary to briefly consider the current path that applications may take.

Randwick receives and processes approximately 1100 applications per year. This does not include Section 96 amendments to approved applications and S82A reviews of determinations.

As with all Councils, development applications may be determined following 2 possible paths – either by the Councilors via a relevant committee or Council meeting process, or by senior officers, under delegated authority provided by the Councilors to the General Manager and from there to these senior officers.

In round figures, approximately 90% are determined under staff delegation established by Council resolution. The delegations provide that any application up to the value of $2 million may be determined by relevant senior officers. Any application, regardless of the value of works, may still find its way to be considered by Councilors, if 3 or more Councilors request that it be reported to the relevant Committee, and not be determined under delegation.

The 10% determined by Councilors are considered by the Council’s Health, Building and Planning Committee.

The adopted procedures relating to the operation of the Health, Building and Planning Committee provide for:

- Applicants and objectors to be notified in writing 7 days in advance, of the consideration of an application by the Committee;
- Consideration of matters to be in an open public forum;
- A maximum of one public speaker for, and one public speaker against, the application when addressing the Committee;
- A maximum of 3 minutes per public speaker when addressing the Committee.

The Committee has full delegation to determine applications.

There is no opportunity for applicants and objectors to address the full Council meeting where the application has been considered at Committee.

The path followed by applications reported to Committee is shown below:

```
1. DA value greater than $2M
   Applicant & objectors informed in writing of meeting
   Committee Meeting
   1 speaker for 1 speaker against, 3 minute limit on speakers
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2. DA "called" to Committee by 3 or more Councilors
   **DA path to Health, Building & Planning Committee**

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ITEM 6.5
The DA process, at most Councils, is inherently complex and resource hungry. Due to the range of variables in each local government area and with each Council organisation, there is no single one-size-fits-all model. There are however, established best practices that can be drawn upon and implemented as necessary and appropriate. It is noted that some of these practices, such as mediation and extensive use of delegated authority, are practiced at Randwick.

The use of Independent Hearing and Assessment Panels is a practice that has also been promoted as best practice. Like all so-called best practices, it may or may not be suitable to individual Councils, depending on the success and acceptance of their current operations.

This report assumes that Randwick Council is generally satisfied with the current practices and is looking at the introduction of an IHAP in order to enhance an already generally sound process.

5. Evolution of Independent Hearing and Assessment Panels in NSW

IHAPs have operated in NSW since 1997, the first having been established at Liverpool City Council, Fairfield City Council established an IHAP in 2001, with similar functions and objectives to that of Liverpool Council. Sutherland and Warringah established their panels in 2000. Waverley Council, in December 2005, resolved to trial an IHAP for 12 months, likely to commence in July 2006.

The NSW Land and Environment Court Working Party of 2001 noted that Liverpool Council resolved to establish the Panel with the following main functions:

- to independently assess development applications referred to it and make recommendations with supporting reasons to the Council;
- to provide an independent forum in which objectors and applicants may be heard in person; and
- to consider applications made by the Council and make recommendations with supporting reasons.

The Court Working Party noted that the two objectives of the initiative were:

- to ensure that development applications which are complex and/or significant are submitted to a rigorous and transparent process; and
- to allow councillors to focus on the formalisation and development of policies to provide a framework and guidelines for decision making.

In the 2001 report, the Land and Environment Court Working Party strongly encouraged Councils to consider establishing IHAPs modelled on those at Liverpool and Fairfield as a form of alternative dispute resolution. The Working Party advocated the use of Panels as a forum to provide objectors and applicants to be heard in person, independently assess applications and make recommendations as to how they should be determined.

The Independent Commission Against Corruption published a position paper Taking the Deal Out of Development: recommendations for statutory reform in mid 2003. The ICAC recommended to the then PlanningNSW that they undertake an assessment of IHAPs in conjunction with various councils across NSW. The ICAC noted that, after the earlier investigation of corruption in Rockdale Council, the possible value of panels in diffusing the level of influence on an individual councillor would have over the development assessment process.

The ICAC noted that the fundamental purpose of IHAPs would be to assist councillors in finding the right balance between two, sometimes incompatible roles – that of development assessor and community advocate as an elected representative.
The ICAC recognised that one of the difficulties faced by Councillors is that there is no separation of powers and roles. Councillors are:

- the legislators – they make the rules, such as LEPs, DCPs other policies;
- the judiciary – they interpret matters and determine applications;
- the advocate – they represent community views on applications.

The ICAC Commissioner reporting on corruption at Rockdale Council expressed the opinion:

"If Rockdale Council had an independent advisory hearing panel, developers may have been more reluctant to approach Snyrnes and McCormick or respond to their solicitations."

Many Councils are looking seriously at alternative decision making models. We are likely to recommend that PlanningNSW undertake a cost and benefit analysis of independent hearing panels to assess how effective they are.

At the time of considering the establishment of an IHAP at Sutherland Council in February 2003, the Council's General Manager reported to the Council that there was little likelihood of the competing roles of Councillors changing, but that there are ways of improving the application process and hence transparency. The General Manager's report advised:

The development application assessment process is complex, controversial and regularly leaves applicants and/or objectors with a feeling of unfair or unreasonable treatment. There are also perceptions that some applications are determined on the basis of influence (objector or applicant), at the expense of planning merit as required by the Environmental Planning and Assessment Act. On occasions, refused applications end up in the Land and Environment Court at considerable cost to Council ($900,000 in 2001/2 and estimated $460,000 for 2002/3).

This paper recommends the introduction of the IHAP on a 12 month basis, not to diminish the role of Councillors but to introduce an assessment system more in keeping with the transparency standards which are expected today.

The consideration of an IHAP at Sutherland arose from a review of the development assessment process at the time, arising from the ICAC recommendations mentioned above. The introduction of an IHAP was accompanied by other measures, including an Architectural Advisory Panel.

Canterbury City Council has resolved to establish a panel and Councillors and officers are currently working through the operational details. Waverley Council has resolved to establish a panel.

There is no uniform model for the structure, functions or operations of IHAPs. As a result there are variations across those that exist. These are examined and assessed in this report, as well as potential for adaptation to the Randwick context.

IHAPs are also being established by the NSW Department of Planning. In August 2005 the Department called for expressions of interest from suitable consultants to serve on IHAPs. At the time the Department stated "The panels will provide impartial technical and project assessment advice to the Minister for Planning on complex or controversial proposals, recordings and related planning matters."

When required for a particular task the Minister for Planning can convene a panel comprising one or more independent experts that will assess and/or coordinate hearings into development proposals and recordings and make recommendations to the Minister, as well as independently review planning policies and instruments.
In December 2005 the ICAC released a discussion paper titled “Corruption risks in NSW development approval processes”. This paper again refers to the different and conflicting roles of Councillors and the shortcomings, in some cases, of existing DA assessment and determination processes, particularly committee and council meetings.

The discussion paper raises a number of administrative and processing issues associated with DA and is currently seeking feedback on the matters raised. The ICAC discussion paper once again raises the merits of IHAPs.

6. The role and objectives of an Independent Hearing and Assessment Panel

IHAPs are generally established by Councils to ensure that DAs that are complex, either as a result of the technical issues involved and/or some legitimate community concern, are submitted to a rigorous and transparent public process and to allow Councillors to focus on strategic issues of policy development rather than the process of individual DAs.

In NSW, the panels do not have a delegated decision making role in relation to DAs. They exist to provide independent, specialist advice to Councils. They generally operate to review professional officers’ development assessment reports, and carry out the review having heard from objectors and applicants, as well as information provided by council officers. They generally also visit the DA sites and may visit objectors’ properties, depending on the relevant issues.

The panel’s review is based on each individual panel member’s professional knowledge and interpretation of the policy and statutory context for the particular application.

To some extent, the establishment of an IHAP may be seen as a process to obtain a “professional second opinion” which may remove a lot of the doubts. (Report of Canterbury Council Director of Corporate and Community Services 28 June 2006).

The above Canterbury Council report noted:

IHAP's purpose is, from observations made of the operation of others, to simultaneously

- Provide increased transparency of an accountability from the development assessment process
- Provide a forum that increases the perception and actuality of “merits based” (as distinct from some lesser form) assessment of development applications
- Assess and make recommendations on development applications that are defined as having major significance, that are controversial and/or have unresolved objections, relative to a Council’s own tend or are nominated (for the consideration of its IHAP) by the Council, based on some other criteria
- Make recommendations, through IHAP reports to Council, on priorities for either the initial establishment or subsequent “existing policy” review of land use planning policy provisions, based on IHAP members’ experience and knowledge of practices elsewhere.

Examples of the roles played by IHAP’s elsewhere include dealing with the following types of referrals:

- Significant applications involving Council or a Councillors (or staff member) as applicant, and particularly those in respect of which unresolved objections remain at the time the report is prepared
- All applications that do not fall within delegation limits to staff members to determine
- “Significant” development applications (as designated by a senior officer delegate)
One Council researched in preparing this report requires its IHAP to deal with "all other development applications, other than single storey dwellings and ancillary development, if they have unresolved objections".

The objectives in establishing a panel at Sutherland Council were:

- to provide an independent assessment of major, controversial and nominated development applications;
- maintain the rights of all parties and decision making on applications not determined by staff delegation;
- improve transparency of decision making and remove perceptions that decisions are not always merit based;
- a system seen to be fair by applicants, objectors, Councillors and the community. (Report by General Manager to Environment and Health Committee 3 February 2003)

The various "charters" and objectives of the existing IHAPs have been examined and are summarised in the table below.

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<tr>
<th>Feature</th>
<th>Warringara</th>
<th>Sutherland</th>
<th>Fairfield</th>
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<tr>
<td>Objective</td>
<td>To provide a forum for interested parties to be heard openly in terms of the requirements of Clause 15 of the WEP 2000 for Category Three Development Applications.</td>
<td>To provide increased transparency for the development assessment process.</td>
<td>To provide increased transparency and accountability for the development assessment process.</td>
<td>To provide a formalised system for an independent hearing forum for all stakeholders to discuss issues of concern regarding particular development applications.</td>
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<td>To undertake an independent assessment of the proposed development.</td>
<td>To provide the opportunity for objection and applications to present their cases to an independent body with specialist knowledge regarding matters relevant to the evaluation of development applications.</td>
<td>To provide the opportunity for objections and applications to present their cases to an independent body with specialist knowledge regarding matters relevant to the evaluation of development applications.</td>
<td>To provide the opportunity for objections and applications to present their cases to an independent body with specialist knowledge regarding matters relevant to the evaluation of development applications.</td>
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<td>To provide increased transparency and an independent assessment of the proposed development relating to buildings classified 2 to 9 of the BCA where there are more than two unresolved objections.</td>
<td>To assess and make recommendations on major, controversial and nominated development applications and those with unresolved objections.</td>
<td>To assess and make recommendations on major, controversial and nominated development applications and those with unresolved objections.</td>
<td>To assess and make recommendations on major, controversial and nominated development applications and those with unresolved objections.</td>
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<td>To provide stakeholders with an increased sense of involvement in the outcomes of the assessment process in relation to the types of Development Applications listed in Clause 1.3 above.</td>
<td>Make recommendations to Council on planning policy issues.</td>
<td>Make recommendations to Council on planning policy issues.</td>
<td>Make recommendations to Council on planning policy issues.</td>
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<td>To achieve development.</td>
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### Functions

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<th>Functions</th>
<th>Burwood</th>
<th>Fairfield</th>
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<tr>
<td>To consider and make a recommendation to Council on Development Applications classified as Category Three under Clause 15 of the WLEP 2000 following Council assessment.</td>
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<td>For all parties.</td>
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<td>To consider and make a recommendation to Council on Development Applications of Class 2 to 6 of the ECA where there are more than two unissued objections.</td>
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<tr>
<td>To consider and make a recommendation to Council on Development Applications referred to it and make recommendations to Council. The panel does not ordinarily consider rerouting applications however the Charter does not prohibit the Director's recommendation (The Director would only</td>
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<td>The primary functions of the panel are:</td>
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<tr>
<td>• Provide an independent forum for open discussion amongst members of the Panel, applicants and objections.</td>
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<tr>
<td>• Independently assess development applications referred to it and make recommendations to Council.</td>
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<tr>
<td>• To independently assess development applications referred to it and make recommendations to Council. Provided such recommendations comply with Council policies.</td>
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<tr>
<td>• To provide an independent forum for open discussion amongst members of the Panel, applicants and objections.</td>
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<td>• To consider applications made by Council and make recommendations made by Council and make recommendations with supporting</td>
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**Note:** The table above outlines the functions and responsibilities of the panel in relation to development applications, highlighting the decision-making process and the role of open discussion in making recommendations.
### ITEM 6.5

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<th>Feature</th>
<th>Warringah</th>
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<tbody>
<tr>
<td>Application where there is significant public interest.</td>
<td>To openly discuss proposals and hear representations from applicants and objectors.</td>
<td>To independently assess applications submitted by Warringah Council for development on Council.</td>
<td>Make such a recommendation of an application was particularly controversial – in with multiple parties.</td>
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<td>The draft IHAP charter proposed for Waverley Council includes:</td>
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<td>Reasons for finding determination by Council.</td>
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The draft IHAP charter proposed for Waverley Council includes:

The purpose of Waverley Council’s IHAP is:

To support excellence in DA assessment at Waverley and resultant environmental and customer service outcomes by:

1. Improving opportunities for objection and applicants to gain a fair hearing in the development assessment process
   (By: Appointing an independent and expert body (IHAP) to hear such submissions on nominated proposals in a public forum, assess the proposals and submit recommendations to Council for decision.)

2. Improving the expertise, credibility and predictability of DA assessment
   (By: Reforming staff expertise and transparency of DA assessment through involvement of IHAP, including its deliberation on recommendations of Council officers.)

3. Improving the opportunity for Council and its advisors to prepare plans and apply DA policy
   (By: Reducing need for Council to be reactive to relatively minor issues and allowing time for more strategic analysis, policy interpretation and the adoption of applied interpretive guidelines for others.)

4. Allocating resources for IHAP that align with the above while achieving excellence and efficiency in DA assessment
   (By: Implementing processes which wisely allocate resources initially and for opportunities for IHAP to assist in reducing costs to Council and others in the DA system, and through ongoing monitoring.)

The largely common objectives and functions can be summarised as:

- to provide a forum for objectors and applicants and an increased sense of stakeholder participation in the outcomes
- to provide increased transparency and accountability
- to undertake an independent assessment
- to make recommendations to the Council
Some objectives and functions that are not necessarily shared across the 4 IHAPs but are worthy of mention are:

- To suggest policy changes in relation to planning controls
- To consider re-zoning applications
- To free up council and committee meetings to enable concentration on strategic planning and policy issues
- To reduce the number of appeals to the Land and Environment Court

In the case of the IHAPs being established by the Department of Planning in order to provide advice and recommendations to the Minister, the Department’s publicity at the time stated that:

- By focusing on the key or contentious issues, a panel’s recommendations can facilitate a decision and speedy outcome
- IHAPs will streamline the assessment process, with input from stakeholders and government
- Opportunity for greater credibility of decisions
- Transparent technical evaluation, with the panel recommendations being made public
- Impartial review process to prevent any perceived conflict of interest
- Faster decision making and resource savings
- Reduced likelihood of legal challenges as there will be independent analysis and community involvement before decisions are made
- Cost-effectiveness – panels are constituted as required

It is worth noting roles and responsibilities that are not undertaken by IHAPs:

- They do not act as the ‘Council’ or as de-facto council officers – they are entirely independent
- They do not make decisions – they make recommendations
- They do not mediate between parties, although, through discussion and dialogue, they may seek to find common ground and a way forward
- Their purpose is not to achieve consensus

7. The role of Councillors with an IHAP

The principal role of Councillors is to assist in the establishment and objectives of any panel and then to consider performance and achievement.

There are no Councillors at Liverpool and Warringah Councils, with administrators in place. In both cases the decision to introduce an IHAP and the successful implementation of the panel preceded the appointment of the administrators.

At the 2 Councils (Sutherland and Fairfield) with Councillors, where panels operate, Councillors have no official role whatever.

At Fairfield, Councillors may attend and address the panel only as an applicant or objector, or on behalf of applicants and objectors, but not in their capacity as a Councillor.

At Sutherland Councils may attend the public sessions of the meetings as observers and may only address the panel if they have declared an interest in a matter and are speaking as a resident.

At both Fairfield and Sutherland, Councillors receive the recommendations and minutes of the IHAP meeting when the relevant committee meeting agenda is circulated.

As is clear from the discussion above dealing with the evolution, role and objectives of IHAPs, the express purpose is to obtain independent objective advice and recommendations; for Councillors
to then consider when determining matters. Any involvement of Councillors in the operation of an IHAP or the panel meetings would defeat this purpose. At the end of the day, Councillors will remain the determining authority for these applications and can choose to accept or reject the IHAP recommendations. It would be inappropriate if Councillors, in their role as Councillors (as opposed to being a resident expressing a view) to have any involvement.

Discussions with the chair of the Warringah, Liverpool and Fairfield IHAPs have confirmed no involvement with Councillors relating to either individual DA’s or the operation of the panel.

While Councillors have no role in the operation and recommendations of the panel, they may have a role in some of the following areas:

- establishment of terms of reference or objectives of the panel;
- establishment of the nature of applicants to be referred to the panel;
- the panel membership;
- consider review reports on the operation and performance of the panel, including reaction and responses from applicant and objectors.

They may also choose to refer major policy and rezoning matters to the IHAP for independent review and advice.

8. Applications considered

The nature of applications considered by IHAPs varies across the 4 councils. Each council determines the criteria for referral of matters to the IHAP. The table below provides a comparison:

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<tr>
<th>Feature</th>
<th>Warringah</th>
<th>Sutherland</th>
<th>Fairfield</th>
<th>Liverpool</th>
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<tbody>
<tr>
<td>Categories of Applications</td>
<td>All matters as Category Three as required by Clause 10 and other relevant provisions of the Warringah Local Environmental Plan 2000 (WLEP 2000),</td>
<td>Significant development applications where Sutherland Shire Council or a Councillor is the applicant or owner,</td>
<td>Any application that has received objections and such objections are not resolved through negotiation between the parties,</td>
<td>Development applications other than dwelling houses and dwellings on developments which have three or more unconsented objections, and Councils own applications if they have attracted objections.</td>
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<tr>
<td></td>
<td>Those Class 2 to 8 Buildings under the Building Code of Australia (BCA) involving residential flat buildings, retail and commercial, industrial, medical, hospitals, clubs where there are more than two unconsented objections, and</td>
<td>All development applications where Sutherland Shire Council or a Councillor is the applicants and/or owner and there have been objections to the proposal,</td>
<td>All applications that do not fall within staff delegations, irrespective of whether or not there are objections.</td>
<td></td>
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<tr>
<td></td>
<td>Those where the General Manager has determined that the public interest is of such a significant nature to refer the application to an independent</td>
<td>Significant development applications as decided by the General Manager and Director</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SJB Planning

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### Table: SJB Planning

<table>
<thead>
<tr>
<th>Feature</th>
<th>Warringah</th>
<th>Sutherland</th>
<th>Fairfield</th>
<th>Liverpool</th>
</tr>
</thead>
<tbody>
<tr>
<td>body</td>
<td>Environmental Services.</td>
<td>• All other development applications, other than single storey dwellings and ancillary development, if they have any unresolved objections (as defined by the Disputes Panel).</td>
<td>• Applications referred to by Council's Environment and Health Committee.</td>
<td></td>
</tr>
</tbody>
</table>

Source: Warringah IHAP Best Practice Workshop August 2005

As is evident from the information in the table above, the nature of applications referred to the respective IHAPs varies.

In discussing these categories with the respective Councils, it is clear that the criteria for referrals is a reflection of the level of staff delegation and a function of both the nature of applications commonly received, and the history of matters that have commonly been considered by the relevant committee in the past.

The establishment of IHAPs has generally been for the purpose of referring applications that would otherwise have been referred to the relevant Council committee, to the IHAP, in the first instance – and then to the committee/Council for determination. Essentially this adds a further step in the assessment process.

The purpose has not been to alter staff delegations to determine matters, or to alter established processes, other than this one additional step – matters that would, prior to the introduction on an IHAP, have been considered by committee/Council, now go to IHAP on route to that committee/Council.

Sutherland introduced some consideration of the type of development, by excluding single storey houses, but any other form of development for which there are unresolved objections, is referred (consistent with previous and existing staff delegations). Also any Councillor or Council officer DA goes to the IHAP (again consistent with staff delegations). There is an opportunity for any development application, whether in the above category or not, to be referred by their Environment and Health Committee.

Sutherland has defined and adopted an interpretation of an "unresolved objection" in order that there is a clear and consistent approach, given that the expression is open to individual judgement.

Liverpool goes further in distinguishing types of development by excluding dwelling houses and dual occupancies. It also sets a different test in terms of objections, with 3 or more unresolved objections being the trigger.

For some particular developments, Warringah also combines type and unresolved objections, in their case being more than two. Warringah does go a step further and nominates some types of
development regardless of the existence of objections. The discretion also exists for the General Manager to refer any application where he/she considers the public interest is of such a significant nature.

Each of the Council’s own applications go the respective panels.

As stated above, the matters referred to IHAPs are largely a function of the extent of existing officer delegations.

6.1 Applications to be considered in Randwick

Ultimately it will be a matter for the Council to determine the category of applications that are referred to a prospective IHAP. If the Council were to follow the approach generally taken at the existing IHAP Councils, it would retain the current staff delegations and refer only those matters that are currently reported to the Health, Building and Planning Committee (and that would continue to be reported to that Committee).

Based on the existing staff delegations this would mean that:

- any DA over the value of $2 million, and
- any DA “called” by 3 or more Councillors

would go firstly to the IHAP and then to the Committee.

Assuming this to be the case, the IHAP would be likely to consider a similar number of applications as is currently experienced by the existing Committee. Councillors have advised that the relevant Committee considers, on average, approximately 6-8 applications per committee meeting over the course of a calendar year, based on the current monthly cycle. During 2005 there will occur 11 committee meetings so in future a similar number of IHAP meetings could be anticipated.

As stated above, in the event that the Council wishes to proceed with the introduction of an IHAP, it will be required to make a clear decision on the nature of applications to be considered by the panel. If the Council is satisfied with the current level of delegation given to senior staff to determine applications then it would be logical to maintain current practice, resulting in DA’s over $2 million or called by 3 Councillors going to the IHAP.

Given that one of the major objectives of an IHAP is to increase transparency in decision making it would be prudent for the Council to add the following additional categories of application for IHAP consideration, consistent with the approach taken elsewhere:

- all Council’s own applications or proposed on Council land, unless determined by the General Manager to be routine and insignificant;
- all applications involving a councillor as applicant or owner;
- all applications where a Council officer is applicant or owner.

In addition, it would be appropriate that the Director have the authority to refer any significant or controversial application to the IHAP.

The decision regarding matters to be referred to the IHAP may have implications for DA processing times. If the Council were to continue with the current officer delegations, then the IHAP would deal with roughly the same number of applications as currently experienced by the Health, Building and Planning Committee. Assuming also that the IHAP meetings were to be accommodated within the existing meeting cycle, allowing IHAP matters to then go straight to Committee, then introducing this extra step would not in itself affect processing times. If additional
matters were to be referred to the IHAP, resulting in fewer matters being dealt with under officer delegation, than processing times may be negatively impacted.

9. Panel Composition

All four of the existing local government panels are made up of 4 panel members, although these may come from a pool of panellists. They are made up of professional members with the following areas of expertise:

<table>
<thead>
<tr>
<th>Fairfield</th>
<th>Liverpool</th>
<th>Sutherland</th>
<th>Warringah</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Law</td>
<td>1 Law</td>
<td>1 Law</td>
<td>3 from any of the</td>
</tr>
<tr>
<td>1 Architecture</td>
<td>1 Urban design</td>
<td>1 Urban design or</td>
<td>disciplines of law,</td>
</tr>
<tr>
<td>1 Environment</td>
<td>1 Environment/</td>
<td>architecture</td>
<td>urban design, town</td>
</tr>
<tr>
<td>1 Community rep.</td>
<td>1 Planning</td>
<td>1 Environment or</td>
<td>planning, architecture</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 Social science</td>
<td>of the environment</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 Community rep.</td>
<td>1 Community rep.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>from a pool of 4</td>
<td>from a pool of 4</td>
</tr>
</tbody>
</table>

In considering the establishment of an IHAP at Canterbury City Council, the relevant report (Director Corporate and Community Services 26 June 2003) stated:

"It is further recommended that unlike IHAPs established elsewhere, there be no "community representative" on Canterbury's Panel. This is because it is felt unnecessary to make provision on the Panel to duplicate the perspective of an elected representative (which is what a "community representative" would be intended to provide), given that IHAP is not to be empowered to make determinations on the matters that come before it; instead it will be empowered merely to make recommendations to the City Development Committee for the Committee itself to make such a determination. In applying Council adopted policies and Codes, which themselves represent expressions of community perspective on development matters the IHAP is essentially provided with the type of perspective on its deliberations intended to be given by a community representative. For these reasons, and because it is the expert "professional technical" views of the IHAP that is being sought by Council in establishing such a Panel, (and not the possibly democratically-unrepresentative view about the "community effect" of a particular development proposal from a non-elected person), it is considered a community representative on Council's Panel is unnecessary."

Note that Canterbury City Council have yet to establish a panel or determine the make up of the panel, so the final constitution is unknown.

The role of Chairperson varies across the Councils. In the case of Sutherland any one of the independent specialists may chair, although in practice there are 2 rotating Chairpersons. In the cases of Fairfield and Liverpool it is usually the lawyer who chairs. At Warringah the lawyer is the chair unless absent.

Waverley Council are proposing a panel along the lines established at the existing 4 Councils.

The constitution of a quorum varies across the Councils. At Fairfield a minimum of 2 members forms a quorum. At Sutherland and Warringah the minimum is 3. At Liverpool the minimum requirement is for the 3 specialist members.

9.1 Panel composition at Randwick

Again, this is a matter for the Council to determine although it would make sense to be guided by the apparent success of the established panels. The intent would be to ensure an appropriate skill set to deal with the major technical issues likely to require examination. These are:
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- external appearance, design, scale, relationship to streetscape, neighbouring properties, etc;
- external environmental impacts such as privacy, solar access, scale;
- numerical and performance based compliance with planning controls and objectives;
- validity and relevance of any objections received and implications for the application and
  objecting property;
- the overall suitability, balancing all matters to be considered under section 70C of the EP & A
  Act.

Professionals with experience in the fields of architecture, urban design, town planning, social
planning and environmental science would be appropriate. While strict legal interpretation may not
be regularly required, the skills and experience in interpreting policies and controls and weighing
up, balancing and judging conflicting opinions and outcomes are attributes that would favour the
inclusion of an appropriately experienced lawyer(s) and/or senior public official (other than existing
local government) on the panel.

The possible inclusion of a community representative (or pool of reps to draw upon) raises
arguments for and against. As mentioned earlier, the suggestion made at Canterbury Council is
that this function is met by the role of Councilors when they meet at Committee. On the other
hand, Councilors would not benefit from hearing all of the discussion and points of view that
influence the panel recommendation.

On balance, it would seem appropriate to have a local perspective and point of view, helping to
balance the technical skills. The existence of local resident may also assist with the atmosphere of
relative informality at the panel meetings and with objectors feeling they are receiving a more open
and objective hearing.

The panel composition has some potential implications relating to the relationship with the existing
Randwick/Waverley Design Review Panel, discussed below.

10. Panel selection and appointment

At least three of the Councillors initially advertised for expressions of interest in metropolitan
newspapers, for the technical experts. Approaches were also made to relevant professional
associations.

At Liverpool the community representatives were nominated by the Council’s five Neighbourhood
Area Managers. At Fairfield the Council advertised in local newspapers and also wrote to various
community groups to seek nominations for the community representative positions. Sutherland
advertised in local papers.

Liverpool Council has appointed 3 or 4 people to each professional position and rotates its
members each month. Fairfield have appointed one person to each position, with alternates,
although the community representatives are rotated as they cannot consider matters in their own
ward.

Originally Sutherland appointed a permanent Chairperson and rotated other panel members, but
now Chairpersons are also rotated (they usually operate 2 meetings per month). Community
representatives are rotated such that they are not dealing with matters within their ward. At
Warringah all panelists are rotated.

The method of selection of panel members has varied across the Councils. In some cases senior
staff were given delegation to appoint. In other cases the initial establishment of the panel involved
interview panels including senior staff and nominated Councillors and recommendations to the full
Council. Subsequent selections have, at times, been delegated.
The period of election to the panel also varies across the Councils. At Liverpool the appointment is annual, although it is renewable, with panelists asked if they wish to continue. At Warringah and Sutherland the tenure is for 2 years. At Fairfield the period of tenure is at the discretion of the Council, but is generally 3 years.

Selection criteria for the panel experts is based on qualifications and experience in the respective areas. All panelists must not have any real or potential conflict of interest or pecuniary interest. In the case of Fairfield they must demonstrate that they do not undertake work in the Fairfield LGA which may conflict with their role. The Sutherland members must not live in the Sutherland Shire or undertake any work within the LGA that will conflict with their role on the panel.

Only Warringah and Fairfield have guidelines on the termination of panelists. All four councils have provisions relating to conflict of interest.

Remuneration and other panel costs are dealt with below.

11. Procedures

Based on the operations of the existing panels, the following apply:

- Hearings are open to the public, at least where the panel is hearing submissions;
- Hearings are held at the Council’s administrative centre at a suitable meeting location.
- Meetings are not necessarily held in Council committee rooms or council chambers;
- The timing of meetings is designed to fit within the established council committee meetings cycle;
- Meetings are advertised in advance;
- Applicants and objectors are individually notified in writing;
- Applicants and objectors may address the panel when asked by the Chair;
- The Chair may limit the time available for presentations and addresses;
- Councillors may attend and observe but not address the meetings in capacity as a Councillor;
- Councillors may address panel if an applicant or objector;
- Decisions made on the basis of a simple majority, with the Chair having the casting vote in the event of a tied vote;
- Panel reserves recommendations only; no delegated authority to determine matters;
- Panel considers Council officer assessment reports;
- Site Inspections are undertaken in advance in a coordinated manner. These may include objectors properties depending on the relevance of issues raised;
- Where the panel’s recommendation is at variance with the officer’s recommendation, the panel states clear reasons;
- Relevant Council officers (may be managers or team leaders) attend the meetings in order to answer questions from the panel;
- After having publicly heard any submissions the panel may deliberate in private;
- All administrative support for the operation of the panel is provided by the Council. This includes organising the meetings and site inspections, notifying the relevant parties, providing copies of information, fielding inquiries etc. Administrative support is not necessarily provided at the panel meetings;
- Minutes are prepared by the Chair.
11.1 Implications for Randwick Procedures:

The Randwick Council Committee Meeting Procedures state that:

"The opportunity exists for members of the public, who have previously registered their interest in speaking at Committee Meetings, to address the Councillors on items appearing on the Agenda. In accordance with the Council's Policy, one person may speak for and one against any item on the Agenda, but ONLY ONCE. At these meetings a maximum period of three (3) minutes each is available to address the members of the Committee."

In summary:

- Speakers must register in advance of the meeting
- There can only be one speaker for and one against
- Speakers have a maximum of 3 minutes

Prior to the introduction of the IHAP at Sutherland Council similar restrictions on members of the public, applicants and objectors addressing Councillors at Committee existed.

The only restriction that Sutherland now imposes, in relation to addressing the IHAP, is that only those objectors who lodged a written objection to the DA at the time of community consultation, are able to address the panel.

Advice received from the Chairperson of the Warringah, Fairfield and Liverpool IHAPs is that any person may address the panel and their role as Chair allows discretion as to relevance of speakers and the length of verbal submissions. Officers from Warringah advise that a 3 minute limit is usually imposed on speakers, and speakers are requested to register with the Council 24 hours prior to the meeting.

In the event that an IHAP were to be introduced and established with similar procedures as those in place elsewhere, the opportunity would be available for all objectors and applicants to address the panel, with discretionary limits on the length of presentations available to the Chairperson.

All of the IHAP Councils have in place Committee procedures that deny the opportunity for applicants and objectors to address the Committee on matters that have been to IHAP. The rationale is that these people have been provided with the opportunity, via the IHAP, to express their views, both at site meetings and at the panel meetings.

The result, in the current Randwick context, would be significantly greater opportunity for stakeholders to address their concerns, issues and support for applications in a structured yet less formal manner, with discussion and questions to the panel possible. The panel would then be in a position to both consider these verbal submissions and make appropriate recommendation to the Committee and Council. This does not mean that Councillors would not continue to be lobbied, as currently exists. The benefit of the panel is that all submissions are heard in public and the extent to which they influence the recommendation is recorded.

When one considers the current restrictions on speakers at the Health, Building and Planning Committee meeting, the introduction of an IHAP and the associated opportunities to address and discuss matters, would result in a substantially enhanced process for stakeholders.

If the Council adopted the approach taken at the other IHAP Councils, then there would be no public address to the Health, Building and Planning Committee. Meeting procedures would need to be altered accordingly.
If, on the other hand, the Council considered that this enhancement could be achieved without the need for an IHAP, it has the option of altering the current committee procedures, allowing all interested parties to address the Committee. Obviously such an approach has potential negatives attached, discussed in the summary of pros and cons below.

12. Frequency of meetings

Liverpool and Fairfield meet once per month, whereas Sutherland and Warringah meet most commonly twice per month, although within the same week and often on consecutive days, so as to spread the monthly workload and to allow reporting within the established monthly meeting cycle. The frequency of meetings is a function of the workload, which in turn is a function of the matters that the Councils’ consider should be referred to the IHAP, rather than dealt with under staff delegation.

The timing of IHAP meetings is commonly placed so as to fit into the regular committee/Council meeting cycle. For example, at Sutherland, the IHAP is held 2 weeks before the relevant committee (Environment and Health) meeting, allowing time for minutes to be prepared and distributed etc.

In the event that an IHAP were introduced at Randwick it would be a matter for the Council administration to determine the timing but presumably the intent would be to introduce the meetings within the currently established meeting cycle. This is particularly important in order to ensure the ongoing timely determination of D.A.’s. In the current Randwick context, there exists the opportunity for IHAP matters to be reported to both the Committee and to the full Council meetings each month.

13. Cost and remuneration

The external operational costs vary from Council to Council and are a function of the remuneration to panel members and length and frequency of meetings.

Sutherland has an annual budget of $100,000, covering the costs of the panel members. This does not take into account the administrative and staff costs. Canterbury estimates the cost of the panel at $80,000/annum, with administrative support costs to be an additional $70,000/annum – including the recruitment of necessary full-time admin support.

Warringah have advised that the cost of operating their panel to be in the order of $90,000 - $100,000 per annum, including scheduling 2 meetings per month when required.

Waverley Council has estimated the annual cost to be in the order of $80,000 - $100,000, depending on the need to hold more than one meeting per month.

While there are savings acknowledged by each of the Councils, these have not been quantified. These savings may arise from:

- Reduction in length of committee meetings;
- Reduction in conflict resolution, particularly mediation;
- Reduction in appeals to Court.

On the last matter, reduction in appeals, Sutherland estimates a 50% reduction in the number of appeals and associated costs since the introduction of the panel. If this were to be reported at Randwick, this would result in a saving in the order of $100,000/annum (based on current estimated expenditure of $500,000).
Although the amounts differ from Council to Council, Sutherland also differs in two ways. It pays its community representative at the same rate as the technical experts and all panel members are paid at an hourly rate.

The Chairperson of the panels at Warringah, Liverpool and Fairfield expressed the strong view that panel members are not adequately remunerated for their work.

The daily and hourly rates paid to the professional technical experts is, based on extensive market experience, relatively low. Hourly rates for senior experienced professionals are commonly $150 - $250/hour and more plus GST. For lawyers these rates are higher again.

Balanced against this is the relative assurance of regular work on an ongoing basis and the opportunity to participate and contribute to a high profile public process on behalf of a local community.

Given that the Sutherland and Warringah panels are the most recently established and have been able to attract suitable panel members, the rates paid by those Councils appears a fair indicator. Notwithstanding, their rates were established nearly 3 years ago. If Randwick were to proceed, professional hourly rates in the order of $120/hour plus GST covering site inspection and meeting times, plus travel to and from meetings, would seem appropriate. An alternative way of expressing this may be in the order of $950 - $1000/meeting plus GST (assuming 7 hours covering site inspection and meeting). The chair would receive additional payment for preparing minutes etc. It would be a matter for the Council to determine the level of remuneration for any community representatives, although the Sutherland philosophy of equitable payment does appear to have merit.

A general estimate of likely panel costs per meeting is $5500 - $6500. This covers all time spent on site inspections, panel meeting and reasonable travel time. It also allows for some loading for the additional functions associated with the role of Chairperson.

Annual costs would be in the order of an estimated $85,000-$95,000 for 11 panel meetings. If additional meetings are anticipated then the budget would need to reflect this.

The Council would also need to determine the capacity for the existing administration to meet the operational and administrative needs of the panel. Sutherland has absorbed this cost within the capacity of the existing administration. Canterbury have indicated the need for an additional resource. One thing seems clear, a dedicated in-house coordinating position is needed. There may be scope to cover the administrative requirements of both the SEPP 65 panel and the HAP, as occurs at Sutherland.

As stated earlier, quantifying any monetary savings has apparently proven difficult at the various Councils. Savings are assumed to occur due to:

- reduced costs resulting from shorter Committee meetings;
- reduced costs associated with mediation;
- reduced legal costs due to a reduction in appeals to the Land and Environment Court.

The extent to which these possible savings were to be realised would need to be monitored by the Council.

Councils do not have the legal capacity to charge applicants in order to recoup costs associated with an HAP. Warringah have advised that they did introduce a fee of $3000 but this was dropped as it was considered illegal.
14. Staff representation

This varies slightly across the 4 Councils, but basically senior planning staff (Director, managers, team leaders) as required, attend both site meetings and the panel meetings. Staff are present to provide advice on codes and policies, as well as answer any questions from the panel. Generally, they are there to assist the panel as required, and not engage with applicants or objectors.

Depending on the workload and frequency of panel meetings the maximum likely commitment for relevant senior staff will be the equivalent of 1 meeting day/ evening per month, estimated to be an average of approximately 7 hours. This assumes site meetings commencing early afternoon, progressing to the panel meeting commencing early evening and finishing between 9 and 10 pm. Obviously if the frequency of meetings per month or meeting cycle increases, staff obligations will also increase.

14.1 Administration

As the IHAP operates as an additional step in the assessment process it has its own administrative demands. Notwithstanding, in cases where it is the applications that would normally have been referred to committee/council in any event, then many of the support functions are already in place in Councils, so it is not a matter of starting from scratch.

Based on the consultation that has taken place with the IHAP Councils the additional administrative demands arise from:

- Each IHAP application is the subject of a site inspection by the panel, requiring coordination of inspection times with applicants and objectors;
- The panel may receive additional information than is currently the case with committee reports. This information needs to be copied and distributed;
- Applicants and objectors require considerable verbal and written assistance in understanding the role of the IHAP and the process followed for determining the DA, including the role of the council assessment officers, the role of Councillors, the reporting of recommendations to committee/council etc;
- The general distribution of IHAP information;
- The coordination and liaison of panel members, particularly where there may be a pool of panel members and alternates;
- Advertising and recruitment of panel members;
- Review (in some cases quarterly) of performance of the panel, including compilation of statistics, surveying of users etc.

These functions are on top of the usual practices and demands associated with the preparation and distribution of agendas and business papers.

It is common across the four existing panels to not provide administrative support such as minute taking at the meetings. This responsibility lies with the respective Chairpersons.

15. Relationship to SEPP 65 Design Review Panel

Randwick and Waverley Councils operate a joint SEPP 65 Design Review Panel. This panel contains persons with expertise in the area of urban design, architecture, heritage and town planning. While it may be ideal, in the event that Randwick proceeds with an IHAP, to try and achieve some efficiencies, the respective roles of the 2 panels need to be considered.

The Design Review Panel plays a role very early in the life of a DA, sometimes even prior to lodgement, in the form of pre-DA advice, providing guidance on concepts. The applications dealt with are only residential flat building of 3 or more storeys – the matters covered by SEPP 65.
Once lodged, DA’s are referred to the panel almost immediately following public exhibition, in order that advice can be provided to the applicant within weeks of lodgement. This ensures that the applicant is in the picture, either well before, or at least very soon after lodgement. They do not wait for a full officer assessment to occur before being told of necessary changes.

An IHAP has a very different role. The IHAP deals with any relevant application, not just 3 or more storey residential flat buildings. It also comes into the equation very near the end of the overall assessment process, once the officers have undertaken their Section 79C assessment, and assuming various design changes (identified by either officers and/or a design review panel) have been nominated, if not necessarily incorporated. The IHAP is considering and reviewing all relevant matters required to be considered in the merit assessment of a DA, not exclusively design issues.

Sutherland Council operates with both a design review panel and an IHAP. There is no use of panel members from the design panel on the IHAP. Council officers’ views were that, because of the different roles and timing, it is not possible to combine the two panels. When questioned regarding the double-up of design advice/assessment between the two panels, Council officer advice was that there have been no instances of conflicting advice, and if anything the IHAP reinforced the design panel advice, particularly in instances where the applicant had not followed that advice.

Warringah does not have a design review panel, but has on occasions used the urban design/architecture expertise on the panel to provide design review and advice on particular DA’s early in the process, rather than wait until a full IHAP meeting.

In discussing the issue with the Chairperson of the Warringah, Liverpool and Fairfield IHAPs, the view was expressed that the provision of specific design advice early in the assessment process, rather than relying on the full IHAP to provide an opinion, has merit, and the possible use of the design skills inherent on the IHAP is worth considering.

Balanced against these ideas, is the overall concept of the IHAP, to independently and objectively review all of the information relating to a DA (or any other rezoning or policy matter that may be within their charter to consider). Panel members providing design advice and then sitting in judgement potentially raises some of the same conflicts that the IHAP is trying to overcome when Councillors consider matters.

On balance, it would seem difficult to integrate the two roles into a single panel.

Given that Randwick and Waverley Councils operate a combined SEPP 65 Design Review Panel, and that Waverley Council is trialling an IHAP, the advantages, disadvantages and operational challenges should be discussed between the two organisations.

16. Code of conduct, probity, conflict of interest etc.

The various operating IHAP’s contain provisions relating to the conduct of panel members and the operation of the panel. These cover matters such as member responsibilities, interactions, disclosures, pecuniary and non-pecuniary interests, gifts and benefits, public comments, corrupt and unlawful conduct and sanctions.

It is not proposed to cover any more detail in this report relating to the conduct and probity issues. Suffice to say that, in the event that an IHAP is to be introduced at Randwick, these important matters will need to be codified and documented, as public documents, to the Council’s satisfaction.
17. Summary of pros and cons

Pros

- Reduces Councilor computing interest of decision maker and community advocate
- Reduces the possible negative perception of “political” rather than merit based decisions
- Maintains the Councilors as the decision makers
- Provides an opportunity for Councilors to concentrate more on strategic matters and policy setting at Committee meetings
- Can be introduced with minimal changes to existing Committee/Council meeting procedures and cycle
- If introduced to fit in with established meeting cycle then processing times not particularly affected
- Additional level of expert assessment and advice
- Opportunity for all object and applicant input
- Less formal process and forum
- Ensures every matter that comes to Committee/Council has been the subject of an independent site inspection
- Potentially reduces planning appeals and associated costs
- Potential cost savings in other areas, such as mediation, length of Committee meetings
- Due to the more open and thorough review process, compared to the existing Committee procedures, can act as a form of alternative dispute resolution
- Potential to integrate with Design Review Panel
- Lack of a set model allows moulding to suit individual Council needs

Cons

- Perception of a reduced role for Councillors
- Additional direct costs that cannot be directly recouped
- Additional indirect costs such as heavy administrative workload
- Overall net cost to the Council
- Can add confusion about the process – sometimes requires considerable explanation to applicants and objectors
- No industry wide model or structure
- Potential differences in policy interpretation between Council experts and INAP
- Potential increase in DA determination times, depending on the cycle and frequency of meetings
- Any lack of integration with the Design Review Panel may result in conflicting expert views on design issues

As stated earlier, achieving some of the potential advantages offered by an INAP would be possible through other means. For example, conducting site inspections for all Committee matters could occur. Secondly, the opportunity for every applicant and objector to address the Committee could also occur. The introduction of such measures would no doubt significantly increase the length of Committee meetings and place an additional burden on Councillors, particularly all matters being the subject of site inspections in the company of applicants and objectors.

On the other hand, the advantages of a professional “second opinion” and the “depoliticising” of the process would not be achieved.
10. Conclusion and recommendations

The merits of introducing an IAP will vary from Council to Council. Variables that will influence the merits include:

- the level of satisfaction among the Council’s administration, Councillors and the community with current procedures and practices;
- the extent to which accepted best practice exists within the current development application procedures – particularly relating to transparency and opportunity to comment;
- the extent to which applicants and objectors have a genuine opportunity to have meaningful input into the decision making;
- the desire and/or ability of the Council to address acknowledged or perceived deficiencies through other measures – for example changing existing meeting procedures and practices rather than addressing these deficiencies through using an IAP;
- the capacity of the Council to meet the expected additional costs.

The upshot of all of this is that an IAP will not necessarily be the right answer for every Council. Nonetheless, given the support offered by the ICAC and the NSW Land and Environment Working Party, together with the successful introduction at 4 Sydney Councils and the impending introduction at the NSW Department of Planning and Waverley Council, the concept is highly worthy of consideration.

Randwick currently has best practices in place relating to the level of officer delegation to determine DA’s and the use of mediation. As a result a relatively modest percentage of applications find their way to Committee – only those of substantial value (and by implication reasonably significant) and those called by Councillors (and by implication generating some level of controversy).

Those matters that are considered by Committee are subject to reasonably restrictive meeting procedures – offering only one speaker for and one speaker against, and then for only 3 minutes. There is scope to allow greater opportunity for stakeholder input, and an IAP is one such way. The other advantages of an IAP are mentioned above.

If an IAP were to be established at Randwick the Council will need to determine:

1. The constitution of the panel
   - number of members
   - number of alternates
   - skills & experience
2. Applications to be considered – maybe S82A applications
3. Any other matters to be considered such as rezonings
4. An appropriate “Charter”
5. A code of conduct
6. Administrative and meeting procedures
7. Staff involvement and support
8. Remuneration of panel members
It is recommended that:

a) The Council proceed with the introduction of an IHAP;

b) A briefing session be held with Councillors and appropriate senior staff on the implementation of an IHAP, including operational, administrative and procedural requirements associated with the implementation of an IHAP; and

c) Following the briefing session and provision of any other information required by Councillors, a further report be presented for Councillors, confirming the implementation details, including an appropriate “Charter”.

SJB Planning
10. References

- NSW Land and Environmental Court Working Party Report, 2001
- ICAC Taking the Drift out of Development position paper, 2003
- NSW Department of Planning IHAP Information, August 2005
- Canterbury City Council Reports, June and August 2005
- Sutherland Shire Council Report, February 2003 and June 2005
- P&A Walsh Consulting Pty Ltd, report to Waverley Council “Considering an Independent Hearing and Assessment Panel (IHAP) Program”, October 2005
- Waverley Council Report, 13 December 2005
- ICAC Corruption Risks in NSW Development Approval Processes discussion paper, December 2005
General Business

Notice of Rescission Motions