

# **PLANNING COMMITTEE MEETING**

## **BUSINESS PAPER**

**TUESDAY 8 APRIL 2008**

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1<sup>st</sup> April, 2008

**PLANNING COMMITTEE MEETING**

Notice is hereby given that a 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, 8 April 2008 at 6:30 p.m.

Committee Members: The Mayor, B Notley-Smith, Andrews, Bastic, Belleli, Daley, Hughes, Kenny, Matson (Deputy Chairperson), Nash (Chairperson), Procopiadis, Seng, Sullivan, Tracey, White, Woodsmith.

Quorum: Eight (8) members.

NOTE: At the Extraordinary Meeting held on 28 September 2004, the Council resolved that the Planning Committee whose membership consists of all members of the Council be constituted as a committee with full delegation to determine matters on the agenda.

**Apologies/Granting of Leave of Absences**

**Confirmation of the Minutes**

Planning Committee Meeting - 11 March 2008

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

**Address of Committee by Members of the Public**

**Urgent Business**

**Development Application Reports**

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**Miscellaneous Reports**

Nil

**Closed Session**

**Notices of Rescission Motions**

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Ray Brownlee

**GENERAL MANAGER**

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## Development Application Report No. D14/08



**Subject:** 1-9 Pine Avenue, Little Bay  
**Folder No:** DA/915/2007  
**Author:** David Ongkili, Senior Environmental Planning Officer

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### Introduction

Development Application No. 915/2007 for the construction of a 4 storey mixed-use development comprising 845sqm of commercial/retail floor space, 60 residential apartments, 2 levels of parking for 105 vehicles, strata subdivision & associated site works. (Heritage Conservation Area), was deferred from consideration prior to the Ordinary Council meeting on 25 March 2008 at the request of the applicant. The applicant advised in a letter dated 25 March 2008 that the DA be deferred in order for an additional State Environmental Planning Policy No. 1 (SEPP No. 1) objection in relation to storey height be submitted for the DA.

A SEPP No. 1 objection in relation to storey height was submitted by the applicant on 28 March 2008.

### Issues

The Randwick Local Environmental Plan 1998 states that the subject site has a maximum 4 storey height control with the eastern part of the site limited to 3 storeys. The proposal has an overall maximum storey height of 4 storeys.

The need for a SEPP No. 1 objection in relation to storey height is arguable in that the storey height control is identified in a note in the LEP map and is not immediately definable as a development standard (for which a valid SEPP No. 1 is required such as that applicable to the maximum wall height control) but is indicated only in plan form as relevant shaded areas in the DCP – Prince Henry Site. Notwithstanding this, the applicant has submitted the necessary SEPP No. 1 objection to the breach in the 3 storey height (and it should be noted that the applicant advises with this SEPP No. 1 objection that *"the relationship of the building to the 3 storey "zone" ... has been extrapolated from ... the DCP and is as accurate as possible (given the lack of any specific dimensions to describe the extent of the "zone")"*). Additionally, the applicant has already submitted a SEPP No. 1 objection in relation to a breach in the maximum wall height (a standard which applies to both the maximum 4 storey and maximum 3 storey parts of the subject site) with the original DA which has been assessed and considered well founded.

An assessment of the applicant's SEPP No. 1 objection in relation to storey height indicates that the applicant has:

- Articulated the underlying stated objectives of the standard clearly.
- Demonstrated that there are no adverse environmental impacts arising from the proposed development in terms of view loss, loss of privacy, overshadowing and general overbearing impacts.
- Addressed the consistency of the proposed development with the underlying stated objectives of the standard, the local planning objectives for the locality, and objectives of the Act.
- Stated adequately why compliance with the development standard is unreasonable and unnecessary.

Item D14/08

Specifically, the proposal meets the purpose of the specific control in that it has redistributed the floor area of the proposed development in a manner that does not involve a full take-up of the allowable building footprint for the subject site; it has provided for a significant area of public open space along Pine Avenue given the curved form of the overall building so as to enhance views of existing heritage buildings (especially the Flowers Wards); and approval has been granted by the Heritage Office for the proposal as an integrated development.

Accordingly, it is considered that the SEPP 1 objection to storey height is well founded and should be supported.

### **Financial impact statement**

There is no direct financial impact for this matter.

### **Conclusion**

Having regard to the above issue, the original set of conditions recommended in the original report to the Ordinary Council Meeting on 25 March 2008 is amended to support the additional SEPP No.1 to storey height.

### **Recommendation**

That:

- A. Council support the objection under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with Clauses 30A (4) of the Randwick Local Environmental Plan 1998 (as amended), relating to maximum wall and storey height, on the grounds that the proposed development is consistent with the relevant 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. 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 D/0915/2007 for the erection of a four storey mixed commercial/retail and residential development comprising of 60 dwellings and 2 levels of car parking for 105 vehicles, strata subdivision and associated works at 1-9 Pine Avenue, Little Bay, subject to the following conditions:-
  1. The development must be implemented substantially in accordance with the plans numbered DA-LT13-03 to DA-LT13-011, and DA-LT13-013, all Issue A, and stamped received by Council on 29 October 2007, the draft strata plans in 7 sheets prepared by Anthony Nicolas Rood, Surveyor's Reference C403-011b.dwg to C403-017b.dwg dated/printed October 2007 and stamped received by Council 29 October 2007, the Sustainability Report Certificate No 161485M, 25 October 2007 and received by Council on 29 October 2007, 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. The colours, materials and finishes of the external surfaces of the new building are to be consistent with that indicated in the sample board accompanying the subject development application and received by Council on 29 October 2007.
3. Development consent is required to be obtained in relation to the specific 'use and operation' of commercial tenancies/occupancies and 'shop fit out works', in accordance with the relevant requirements of the Environmental Planning & Assessment Act 1979.
4. Details of bicycle storage in the basement indicating compliance with the Development Control Plan – Parking shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.
5. Details of all fencing on site including all entrances and associated structures indicating compliance with Part 4.16 Fences of the Development Control Plan for Prince Henry Site shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.
6. One designated commercial car parking space on the ground level shall be converted to visitor spaces. Details shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.
7. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.
8. The reflectivity index of glass used in the external façade of the development must not exceed 20 percent.
9. 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.
10. Public access to the visitor's carparking spaces is to be maintained at all times and, if required, an intercom system is to be provided adjacent to the vehicular entrance to the carpark, together with appropriate signage providing instructions for use. This approval does not include the installation of any roller doors or gates or the like to the carpark, without the prior development consent of Council.
11. Details of design and security of the proposed southern pathway shall 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 development. The design and security of the proposed pathway shall include, but not be limited to, the following:
  - Provision of appropriate lighting levels along the pathway
  - Provision of tree planting in the pathway with appropriate scale and shelter.
  - Provision of a stepped podium in the central courtyard where walls above 1.5m are kept to a minimum and generally setback from the easement boundary to allow broader planting areas.

- Provision of path levels to be designed to comply with AS 1428.
12. 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.
  13. There must be no encroachment of the structure/s onto Council's road reserve, footway or public place, unless written permission has been obtained from the Council beforehand.
  14. 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 approved paving or the like on the ground) without the written consent of Council.
  15. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) and go to the Building, Developing and Plumbing, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans before commencing any works.

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

16. Upon completion of the development and prior to the issuing of the occupation certificate, documentary evidence is to be submitted to the Council by the Principal Certifying Authority (or other suitably qualified person on behalf of the owner of the premises, to the satisfaction of Council) which confirms that the development has been carried out in accordance with the relevant development consent conditions.
17. The registered proprietor of the land the subject of this consent shall enter into a positive covenant that no right of exclusive use and enjoyment of the whole or any specified part of the area or areas designated as common area or similar in the approved plans will be conferred on any person or persons without the prior approval of Randwick City Council.
18. Where the plans which are the subject of this consent reserves parking spaces and/or courtyards for the exclusive use and enjoyment to an occupier of the land, the registered proprietor shall enter into a positive covenant that no change will be made to such reservations without the prior approval of Randwick City Council.



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

19. The following monetary contribution is to be paid to Council in accordance with Clause 18.2 of the Randwick City Section 94A Development Contributions Plan, effective 2 July 2007.

a) for the provision or improvement of open space	\$33,467.63
b) for the provision or improvement of community facilities	\$14,797.82
c) Administration fee	\$425.00

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

**The following conditions are applied to ensure the protection of heritage and archaeological significance of the site:**

20. An archaeological assessment of the identified strip of land along Anzac Parade is to be carried out including archaeological supervision in accordance with the processes set out in the AMP and the Archaeological Assessment Guidelines produced by the NSW Heritage Office. The assessment should advise on the likelihood and potential significance of relics on the site and recommend appropriate action in the context of the proposed development.

Aboriginal Archaeology

21. Should Aboriginal objects be found, the Department of Environment and Conservation (DEC) is to be informed (as required by the provisions of the 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.
22. 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 and of the possibility that more as yet undiscovered Aboriginal cultural material may exist there.
23. 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

24. Prior to commencement of any subsurface disturbance (excavation), all those involved are to be made aware of the potential for historical archaeological relics to survive within the area. This is to be done through a site induction, which also notifies all involved of their obligations under the Heritage Act 1977 (NSW).
25. In the event that historical archaeological remains or deposits are exposed during the works, the excavation work shall cease immediately and an

evaluation of their potential extent and significance should be undertaken and the Heritage Council of NSW notified under the requirements of the Heritage Act.

**The following conditions are applied to meet the requirements of the Heritage Council of NSW:**

26. The development must be implemented in accordance with the General Terms of Approval issued by the Heritage Council of NSW as detailed in the letter from the Council dated 30 January 2008.

**The following conditions are applied to maintain reasonable levels of environmental amenity and public health safety.**

27. A Site Audit Statement (SAS) and Summary Site Audit Report (SSAR) have been issued for this site. An "Unexpected Finds Protocol" forms part of these documents and shall be complied with as part of this consent. These documents shall be included in all leases and sales contracts.
28. The builders, site workers and the Principal Certifying Authority for this development are to be made aware of this unexpected finds protocol and its requirements prior to any works commencing.
29. Details of and unexpected finds, including the details of any investigation procedures, remedial actions and validation undertaken shall be forwarded to the Council accordingly.
30. Any fill importation to the site is to be monitored and classified by the Site Auditor appointed for remediation of the site or a person with his qualifications. Only 'Virgin Excavated Natural Material' (VENM) is to be imported to the site, as defined within the NSW EPA 'Environmental Guidelines; Assessment, Classification and management of Liquid and Non-Liquid Wastes. 1999'.
31. Any new information which comes to light during construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.
32. 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 & Safety Act (2000) & Regulations (2001).

**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:**

33. 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 (LA90), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15 min and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

34. The report titled "Lot 13, Corner of Anzac Parade and Pines Ave Little Bay – Acoustic Assessment" report number TB916-01F04 (rev 5) Lot 13 DA Report, prepared by Renzo Tonin and Associates Pty Ltd dated 21st May 2005, and the recommendations contained within, form part of this consent.
35. 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.
36. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council prior to a 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.
37. The applicant is to engage the services of a suitably qualified environmental consultant (or similar) to respond to enquiries and complaints made by the community, the general public or Council in relation to Contamination, remediation, excavation and construction site management matters.

A specific contact number is to be made available for such enquiries and complaints (including an after hours emergency contact number). A complaints register is to be maintained to record all such enquiries, complaints and actions taken in response to these enquiries and complaints. This register shall be made available to council officers upon a reasonable request.

**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:**

38. 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.
39. An application for installation of the proposed grey water recycling system, in accordance with Section 68 of the Local Government Act 1993 and the Local Government (General) Regulation 2005 is to be submitted to and approved by Council prior to these works commencing. Details of compliance with relevant Department of Energy, Utilities and Sustainability (DEUS) and NSW Health guidelines are to be provided with the application.
40. An application for the operation of the proposed grey water system, in accordance with Section 68 of the Local Government Act 1993 and the Local Government (General) Regulation 2005 is to be submitted to and approved by Council in accordance with the relevant regulatory framework. Details of compliance with relevant Department of Energy, Utilities and Sustainability (DEUS) and NSW Health guidelines are to be provided with the application.

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

41. 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.

42. 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*.

43. **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.

44. **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 person's 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.

45. 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.

46. 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".
47. 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.

48. **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.

49. 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.

50. 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.

51. Fire safety notices must be provided to fire-isolated stairways, passageways or ramps in accordance with clause 183 of the *Environmental Planning and Assessment Regulation 2000*, at all times.
52. 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:**

53. 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.
54. 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.

55. 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**.

56. 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**.

57. 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:**

58. 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.
59. 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.

60. 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.
61. 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 (except as detailed below) between 8.00am to 5.00pm on Saturdays.
- All building, demolition and associated site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.
- 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.
62. 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.
63. 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.
64. 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.



65. 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.
66. 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.

67. 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.

68. 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.

69. 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.

70. 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 water 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.

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.

71. 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. 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.

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

Temporary fences and 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 any part of the footpath, nature strip or any 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.

72. A 'B Class' overhead type hoarding is required is be provided to protect the public, located adjacent to the development, prior to the commencement of any works on the site which comprise: -

- any works or hoisting of materials over a public footway or adjoining premises, or
- any building or demolition works on buildings which are over 7.5m in height and located within 3.6 metres of the street alignment.

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

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

73. 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.

**The following conditions are applied to provide access and facilities for people with disabilities:**

74. Access, facilities and car parking for people with disabilities must be provided to and within the building in accordance with the relevant provisions of the Building Code of Australia and AS1428.1, AS4299 and 2890.1 and relevant Council development control plans for the subject development, to the satisfaction of the Certifying Authority. Details of the proposed access, facilities and car parking for people with disabilities are to be included in the plans / specifications for the **construction certificate**.

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

75. The applicant shall:

- a) Construct a full width concrete commercial vehicular crossing and layback at kerb opposite the proposed vehicular entrance to the site.

Note: Should the layback be located over an existing kerb inlet pit, the applicant will be required to:

- Convert the existing kerb inlet pit to a grated inlet pit in the new layback; and
- Construct a new kerb inlet pit immediately adjacent to the new crossing to compensate for the lost inlet capacity.

- b) Remove any redundant concrete vehicular crossings and layback and to reinstate the area with concrete footpath, turf and kerb and gutter.

The works shall 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).

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

76. 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 proposed footpath levels along both the site frontages.

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

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

78. 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.
79. 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.
80. 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.
81. 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.
82. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.

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

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

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

83. Stormwater drainage plans have not been approved as part of this development consent. 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.

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- 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 "flushed 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.
84. All stormwater run-off naturally draining to Lot 13 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.
85. All stormwater leaving Lot 13 must be discharged to the new storage pond (located adjacent to Fairway 7 within the Coast Golf Course), via the underground drainage system in Pine Avenue. The site drainage system shall be connected directly into the underground street drainage system through a new or existing kerb inlet pit.

#### Notes:

- a. All new kerb inlet pits shall be constructed in general accordance with Council's standard drawing SD7a.
  - b. 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.
86. Any Infiltration systems/Absorption Trenches must be designed in accordance with "Section 8.5 ABSORPTION TRENCHES" as stipulated in Randwick City Council's Private Stormwater Code.

87. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
88. 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.

89. A sediment/silt arrester pit must be provided:-
- a) within the site at or near the street boundary prior to the site stormwater discharging by gravity to the kerb/street drainage system; and
  - b) prior to stormwater discharging into any absorption/infiltration system.

The sediment/silt arrester pit shall be constructed 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 (e.g. spring loaded j-bolts or similar).
- 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.**

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

- b) The car washing bays must be located outside any required/approved stormwater detention system.
  - c) The car washing bays 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 bays must be constructed with a minimum 20mm bund around the perimeter of the car washing bays (or equivalent)
  - e) A water tap shall be located adjacent to the car washing bays.
91. 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) Finished site contours at 0.2 metre intervals;
  - b) The location, diameter, gradient and material (i.e PVC, RC etc) of all stormwater pipes;
  - c) Details of any infiltration/absorption systems; and
  - d) Details of any pumping systems installed (including wet well volumes).
92. 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.
93. As the above site may encounter groundwater/seepage water within the depth of the basement excavation, the basement carpark is to be suitably tanked and waterproofed. A Structural Engineer/Geotechnical Engineer shall certify the tanking & waterproofing has been carried out to an acceptable standard, to the satisfaction of the certifying authority. 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 groundwater / seepage water to drain around the basement carpark (to ensure that the basement will not dam or slow the movement of the water through the development site).

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

- 94. The residential waste storage areas shall be sized to contain a total of 60 x 240 litre bins (37 garbage bins & 37 recycle bins) whilst providing satisfactory access to these bins.
- 95. The retail/commercial waste storage area shall be sized to contain a total of 8 x 660 litre bins whilst providing satisfactory access to these bins.



96. Prior to the issuing of a construction certificate, the applicant shall submit to Council for approval, details of the mechanical device proposed to be used for the transfer of full bins to the kerbside for collection.
97. Prior to the issuing of an occupation certificate, a waste caretaker shall be employed on an on-going basis to manage the waste storage and collection of the development site in accordance with the Waste Management Plan by J D MacDonald Waste Management Consultants dated July 2006.
98. Details of the proposed motorised trolley system shall be submitted to the Council for approval prior to the issuing of a construction certificate.
99. 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.
100. The waste storage areas shall be clearly signposted.
101. 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 satisfy the provisions of Council's environmental plans, policies and codes for subdivision works:**

102. The applicant shall create suitable right of carriageway, easements for services and internal stormwater lines, as required. The applicant shall be advised that the minimum easement width for any internal stormwater line is 0.9 metres.
103. All conditions of development consent must be satisfied and all public roads and reserves must be satisfactorily restored prior to endorsement of the subdivision plans.
104. The applicant shall provide Council with a survey plan of the property prior to endorsement of the subdivision plans.

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

105. Detailed landscape drawings and specifications which have been prepared in accordance with the landscaping performance criteria and controls for Precinct P2, as set out in the Prince Henry Site Development Control Plan dated 8 December 2004, shall be submitted to, and be approved by the certifying authority, prior to a construction certificate being issued. A copy of the approved plan shall be forwarded to Council if Council is not the certifier for the site.

with the Australian Institute of Landscape Architects (AILA). The documentation is to include:

- a. A site plan at an appropriate scale showing existing site boundaries, existing trees within the property (clearly identified as being retained

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

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

- b. A planting plan at a scale of 1:100 or 1:200 indicating the location of all proposed planting and existing trees to be retained. All plants are to be drawn at their mature size with a dense planting of shrubs, accent plants and ground covers within all garden beds so that a continuous planted cover is achieved. Plant spacings are to be clearly indicated for all accent and groundcovers.
- c. A planting schedule listing all plants by botanic & common names, plant numbers, plant spacings for groundcovers and accent planting, pot sizes, the estimated size of the plant at maturity (height & spread) and proposed staking methods when applicable.

Note: All species proposed for the landscaped areas shall be selected from the list of suitable native species provided in Appendix A of the Prince Henry Site Development Control Plan, dated 8 December 2004.

- d. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in sufficient detail to fully describe the proposed landscape works.
- e. Position of existing and proposed site services including water, gas, electricity, sewer, stormwater, etc.
- f. Sectional elevations through the site showing the existing and proposed groundlines, building elevations, and mature height of proposed planting.
- g. All planter boxes and garden beds constructed on slab must have a minimum soil depth of 600mm and all lawn areas must have a minimum soil depth of 300mm. Planter box details shall be submitted with the detailed landscape plans.
- h. The plan shall respect the prevailing coastal influences and the coast's special design considerations and requirements, and shall be designed accordingly. Generally, species selection shall be restricted to local indigenous coastal species that require minimal watering once established or species with water needs that match rainfall and drainage conditions.
- i. Porous paving shall be used in all pathways. Details are to be provided with the construction certificate application.
- j. Location of easements within the site and upon adjacent sites (if any).

- 106. 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.
- 107. To ensure satisfactory maintenance of the landscaped areas, an automatic irrigation system shall be installed throughout all the landscaped areas. Such system shall provide full coverage to all the landscaped areas with no overspray onto driveways and pathways.

Details of the automatic irrigation system shall be shown on the detailed landscape plans and specifications. The system shall comply with all Sydney Water requirements, and relevant Australian Standards.

- 108. Any substation required shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications.
- 109. Any detention tanks and below ground 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.

**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
- h) Part E1 - Fire fighting equipment
- i) Part E2 - Smoke Hazard Management
- j) Part E3 - Lift Installations
- k) Part E4 - Emergency lighting, exit signs & warning systems
- l) Part F1 - Damp and weatherproofing
- m) Part F4 - Light and ventilation
- n) 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.

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:**

- 1 Development Application Report - Ordinary Council Meeting, 25 March 2008

**Item D14/08**

# Director City Planning Report No. CP8/08



**Subject:** 1-9 Pine Avenue, Little Bay

**Folder No:** DA/915/2007

**Author:** David Ongkili, Senior Environmental Planning Officer

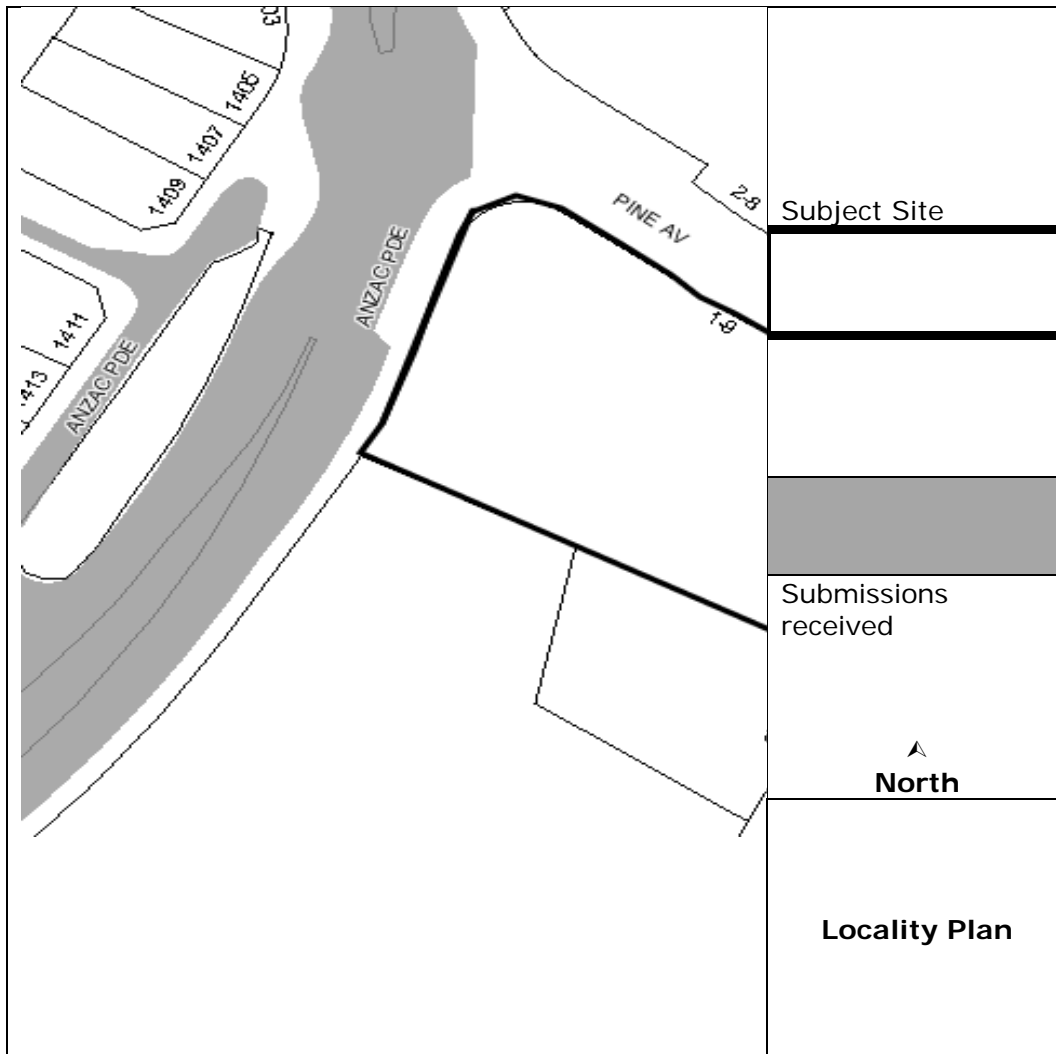
**Proposal:** Construction of a 4 storey mixed-use development comprising 845sqm of commercial/retail floor space, 60 residential apartments, 2 levels of parking for 105 vehicles, strata subdivision & associated site works. (Heritage Conservation Area)

**Ward:** South Ward

**Applicant:** Stockland Developments (Phh) Pty Ltd

**Owner:** Stockland Developments (Phh) Pty Ltd

**Summary Recommendation:** Approval



Item D14/08

## 1. Executive Summary

The subject application is for the erection of a four storey mixed commercial/retail and residential development comprising of 60 dwellings and 2 levels of car parking for 105 vehicles, strata subdivision and associated works. The subject site is located on the corner of Pine Avenue and Anzac Parade at the main entrance to the Prince Henry Site. The application is referred to the Health, Building and Planning Committee as the proposed development is valued at \$22.6 million.

The proposal is permissible under Randwick Local Environmental Plan 1998. The proposal breaches the maximum wall height control by a maximum 0.8m in the eastern elevation. An objection under State Environmental Planning Policy No.1 (SEPP No.1) has been submitted in relation to the breach of this control. The non-compliance has been assessed and found acceptable as the proposal will be consistent with the planning objectives for the locality; the part of the building affected by the breach will not be visually intrusive or bulky; the proposal provides an appropriate counterbalance in not utilising the maximum allowable building footprint resulting in a generous public gathering space along the Pine Avenue frontage that will enhance the view of adjoining heritage buildings; and proposal complies with the maximum FSR and maximum building and storey height controls of the Randwick LEP 1998; and additional wall height will not give rise to any detrimental impacts to surrounding uses in terms of solar access, ventilation, privacy and views.

The application complies with all the relevant prescribed controls in the Prince Henry Development Control Plan with the exception of the wall height, setbacks, internal solar access and floor-to-ceiling height. The breach in setbacks is localised along Anzac Parade and Brodie Avenue and arises from the curved builtform of the proposal which, conversely, has provided opportunities for generous setbacks to be provided in the form of the large public gathering space in the north-east of the subject site along Pine Avenue. The shortfall in units gaining adequate solar access is minor (6 out of the total 60 dwellings proposed) and arises from constraints imposed on the builtform by the shape and configuration of the subject site. The floor to ceiling height of Level 2 will be 2.7m (compared with the 3m DCP requirement) is acceptable as this level will be for residential use and not commercial use.

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. Additionally, one submission was received in response to the notification/advertising of the proposal.

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 with the exception of the number of dwelling units which exceeds the Masterplan/Deemed DCP by 25 dwellings. As discussed in this report, the increase in number of dwellings arises from the design and layout of the proposed building (given the permissible footprint) in accommodating the number of dwellings proposed. Despite the increase in the number of dwellings, the proposal overall will not give rise to any adverse impact on the amenity of adjoining and neighbouring properties in terms of solar access, privacy and views. A section 94 contribution will be applied for the additional increase in dwellings.

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

## 2. The Proposal

The proposal is for the erection of a four storey mixed commercial/retail and residential development comprising of 60 dwellings and basement car parking for 105 vehicles and strata subdivision.

Specifically, the proposed development will contain the following uses:

- Retail/commercial floor space of approximately 840 sqm at ground level
- Residential areas comprising 60 dwelling units over four levels above the ground level
- Carparking on two levels
  - Ground level with 37 carspaces (23 spaces for retail/commercial and 14 spaces for visitors), as well as bicycle parking, switch room, storage spaces, fan room, MDF room and loading docks
  - Basement level with 68 carspaces, as well as bicycle parking, greywater plant and storage rooms, storage spaces, fan room.

In terms of dwelling units, the proposal contains the following number and size of apartments:

- 27 x 1 bedroom apartments
- 30 x 2 bedroom apartments
- 3 x 3 bedroom apartments

Access to the basement and ground level carpark will be via an entry and exit point at Brodie Avenue.

A generous public gathering space is proposed to the north-east of the subject site along Pine Avenue. In addition, a semi-enclosed central south-facing landscaped communal courtyard is proposed to the rear of the proposed building.

## 3. The Subject Site and Surrounding Area

The former Prince Henry Hospital site is located on the eastern side of Anzac Parade approximately 14km south of the Sydney GPO. The site, now referred to as the Prince Henry site, is bounded to the north by the University of New South Wales, to the north and east by the Coast Golf Course, to the east by Little Bay and to the south by the Coast and St Michaels Golf Courses and to the west by Anzac Parade.

The site that is the subject of the proposed development, forms part of a development precinct identified in the adopted Master Plan (now a Deemed DCP) for the Prince Henry site. The subject site is known as Lot 13 in DP 270427. The site is also referred to as Lot 19 in Council's Prince Henry Site DCP (the DCP). The subject site is located on the south-eastern corner of Anzac Parade and Pine Avenue and bounded on the eastern side by Brodie Avenue. It comprises vacant land with an area of 5874 sqm.

## Item D14/08



Figure 1: The subject site (edged) and surrounding area.

Development in the locality is predominantly comprised of residential uses as follows:

- To the north on the opposite side of Pine Avenue is a vacant lot (Lot 11) within the Prince Henry site which was the subject of a separate development application (DA 616/2006) by the same applicant for mixed commercial and residential development and refused by Council on 10 April 2007.
- To the east are the existing Flowers Ward and Memorial Clock within the Prince Henry site. To the north-east is the former Pathology Building which has recently been redeveloped and sold as Stockland's Coperture apartment building.
- To the south is a heritage item known as the Henry Trading Post and beyond this the St Lukes redevelopment site for aged persons housing at Lot 20.
- To the west on the opposite side of Anzac Parade is a cluster of shops and beyond these shops are predominantly low density residential developments.

#### 4. Site History

The site of the proposed development was previously the subject of a Development Application (DA No. 615/2006) for a five storey mixed commercial/retail and residential development comprising 74 dwellings and ground and basement carparking for 124 vehicles and strata sub-division which was refused by Council on 10 April 2007. The current proposal essentially amends the previous development proposal primarily as follows:



1. Deletion of one residential floor level reducing the height of the proposed development from five to four storeys (thus complying with the Randwick LEP maximum 4 storey height control).
2. Provision of a complying maximum FSR of 1.2:1 compared with the previous non-complying FSR of 1.5:1 (thus complying with the Randwick LEP 1998 maximum 1.2:1 FSR control).
3. Provision of a complying maximum building height of 14.8m compared with the previous non-complying building height of 18.35m (thus complying with the Randwick LEP 1998 maximum 15m building height control).
4. Provision of a complying minimum soft landscaping area of 25 per cent compared with the previous non-complying area of 19.6 per cent (thus complying with the DCP – Prince Henry minimum 20 per cent soft landscaping control).

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.

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 other development applications have been approved for proposals in the wider Prince Henry site including the demolition of identified buildings and the decontamination and rehabilitation of land, erection of buildings for specific social/community bodies and infrastructure, civil and streetscape works, and private residential developments ranging from dwelling houses and multi-unit housing developments.

## 5. Community Consultation

### 5.1 Advertising/Notification

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. In response to the advertising/notification, one submission was received as follows:

C Abela, c/- 1587 Anzac Parade, La Perouse (on behalf of La Perouse Precinct Committee)

- **Enclosed balconies should be included in FSR calculation.**

The proposal will provide predominantly recessed balconies to each dwelling unit and balconies with a northern, eastern and western aspect are installed with sunshade devices. These recessed balconies are not enclosed balconies (that is, they are not covered/enclosed with a permanent fixed glazed or similar wall structure) and as such, are not habitable floor area. Rather, they constitute private open space for apartments as defined under Section 4.7 of the DCP – Prince Henry. As such, the

balconies appropriately should not be included as floor area for the purposes of FSR calculation.

- **Excessive bulk and scale creates adverse overbearing and visual impact**

The proposal not only provides for a landmark building at this entrance corner to the Prince Henry site but also provides generous public gathering space along Pine Avenue. The amended proposal has lowered the proposed building for the subject site by one storey and thus represents an improvement in visual bulk and scale when compared to the previous development under DA No. 615/2006. It has a well considered articulation and modulation that further breaks the bulk and scale of the proposed building and provides for a reasonable builtform that allows for the future townscape character of the subject site to develop and grow as envisioned under the Masterplan.

The proposal is commensurate with the redevelopment of the subject site to the scale that is permissible under Clauses 12A and 30A of the Randwick LEP 1998, that is, for a local neighbourhood activity centre. Furthermore, it should be noted that under these same clauses and the Prince Henry DCP, a number of lots (Lots 6, 18 and 24) fronting Anzac Parade to the north of the subject site and within the Prince Henry site have been designated for multi-unit residential buildings at a height of 5 storeys (4 storeys plus loft). Being in the northern part of the Prince Henry site, these lots have been identified for higher densities and heights precisely to “announce” the urban character of the overall Prince Henry site as one drives south along Anzac Parade and to act as “architectural precursors” of the urban redevelopment of the Prince Henry site in the sequence culminating in the townscape entry/gateway that is lots 11 and 13. The future desired character of the townscape entry/gateway at the corner of Anzac Parade and Pine Avenue is that of a local neighbourhood activity centre which is now statutorily enshrined in the zoning and builtform controls for the subject site under Clauses 12A and 30A of the Randwick LEP 1998. The proposed development of the site to a complying maximum building and storey height serves to promote this character in an area that has been designated for urban consolidation under the Prince Henry Masterplan.

- **Non-compliance with setback on Anzac Parade**
- **Proposed building is too close to Anzac Parade and the adjoining roundabout**

The proposal provides for a 3m setback along Anzac Parade whereas the DCP - Prince Henry Site requires a 4m setback. The proposed setback is considered acceptable for the following reasons:

- The breach amounts to 1m which is considered minimal such that full compliance would not be of any significant visual benefit to the Anzac Parade streetscape as the design of the building in itself provides for an appropriate aesthetic and architectural built edge and form to the Anzac Parade frontage and corner as it wraps around into Pine Avenue.
- The breach in the setback arises from the curved builtform of the proposal which, conversely, has provided opportunities for generous setbacks to be provided in the form of the large public gathering space in the north-east of the subject site along Pine Avenue.
- The encroachment of the setback to Anzac Parade is acceptable as the site can allow for a prominent building edge along this frontage to strengthen the streetscape in this designated centre whilst peeling back at Pine Avenue to provide for public space.

- The proposal will maintain the mandatory 3m landscape strip to Anzac Parade which will be landscaped to soften the building along this edge.
- Breach of setback to eastern end combined with alien design of the building degrades heritage significance of the museum in the Flowers Ward Complex.

A Heritage Impact Statement (HIS), prepared by Tanner Architects Pty Ltd, was submitted with the application. The HIS indicates that "...the potential for impact on the western backdrop of the Flowers Wards is mitigated through the modulated east elevation of the building proposed for Lot 13 with its strong horizontal line of the single storey podium". Additionally, the HIS also states that "The proposed building potential impact arises from the siting of the goods delivery bay opposite the entry to the Flowers Ward. In other respects, the proposed building has no impact on the built item (ie., the Flowers Ward) due to the use of the single storey podium and slender fin of the upper floors which mitigates the extension of the DCP recommended building envelopes" This curved and slender builtform has resulted in two positive outcomes for the adjacent heritage buildings :

1. It underpins the creation of a significant open public gathering space along Pine Avenue that physically contributes to and enhances the existing curtilage and setting of the adjacent Flowers Wards, the Memorial Clock Tower, Entrance Gates and Gatehouse and Gateposts, the former Pathology Building, the Avenue of Norfolk Pines within the Pine Avenue streetscape, Ensemble of Water Tower, Wishing Well and Clock Tower and their setting .
2. It generates an open vista down Pine Avenue as the building wraps around the Anzac Parade, Pine Avenue and Brodie Avenue corners enhancing the view towards the Flowers Wards, the Memorial Clock Tower, Entrance Gates and Gatehouse and Gateposts, the former Pathology Building, the Avenue of Norfolk Pines within the Pine Avenue streetscape, Ensemble of Water Tower, Wishing Well and Clock Tower and their setting peeling back into Brodie Avenue to form an open public space that also provides a vista to the Flowers Ward, the Clock Tower and down Pine Avenue towards Little Bay.

Council's Heritage Planner concurs with these positive impacts of the proposed building in relation to the adjoining and surrounding heritage items. It should also be recognised that the Heritage Council has approved the subject proposal and advised of its approval of the integrated development application in a letter dated 30 January 2008 with its accompanying general terms of approval. The general terms of approval have been included as conditions of consent. Finally, the new building should not be required to mimic the design and materials of existing heritage items but rather be encouraged interpret and complement existing heritage items and elements in their design. The proposal exhibits these qualities adequately as assessed in Section 10.4.2.1 of this report.

Accordingly, the encroachment of the proposed building in the south-eastern corner to Brodie Avenue is considered minor with the majority of the curved building line along this street well setback from this road and does not give rise to any adverse impact on the visual amenity of the streetscape on Brodie Avenue.

- **Single level of retail/commercial use will curtail provision of retail/commercial facilities.**

The provision of an appropriate level of retail/commercial floor space is largely a market related issue which the applicant has assessed and appropriately determined for the proposed development. Essentially, the applicant states in the SEE that the

provision of 845 sqm of commercial/retail space on the ground floor would be adequate to *"cater to the needs of the local community and may also be reasonably be expected to result in creation of local employment"*. Accordingly, the applicant advises that an additional level of commercial floor area in Level 2 (above the ground floor level) will not be viable in terms of the demand and need for such space in the subject location. In particular, the applicant has advised that the provision of space for a major supermarket cannot be justified for the location. It should be noted that the provision of residential uses on Level 2 (instead of commercial uses) is permissible under the Residential 2D zoning.

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- **Excessive carparking area will lead to potential conversion to retail/commercial floor area through future Section 96 modifications.**

The excess carparking provided in the proposal ensures that carparking needs of future residents, visitors, and businesses in the proposed development will be adequately met on-site. Accordingly, as discussed in Section 10.3.2, the proposal provides more than adequate numbers of carparking for the proposed retail/commercial use in accordance with the DCP – Parking. There is no indication in the proposal that future retail/commercial floor area expansions can, or is to be, sourced from converted excess carparking spaces and, as such, any claims that the applicant will do so would be purely speculative.

- **Proposal sets bad precedent for future developments in the Prince Henry site**

The proposal is considered to be of high architectural merit with a design that strengthens and defines the Anzac Parade/Pine Avenue edge whilst giving sensitive treatment to the adjoining heritage items and streetscape. Additionally, the proposal will be consistent with planning objectives for the locality as expressed in the adopted Masterplan and DCP for the Prince Henry Site. As such, the proposal is not considered to result in an undesirable precedent for the Prince Henry site, especially having regard to the following:

1. It fulfils the Masterplan principle contained in the Prince Henry Masterplan (Section 5.5 page 10) , namely to *"Strengthen the town scape qualities of the Anzac Parade boundary of the site to the north and south of the existing gates"*
2. It will promote the redevelopment of the Prince Henry Site, in the case of Lot 13, for multi-storey mixed retail, commercial and residential development to form the local neighbourhood hub as envisaged in the Prince Henry Master Plan/Deemed DCP and Prince Henry DCP.
3. It will implement the Prince Henry DCP DCP Precinct P2 Performance Criteria (Section 7.2, page 54) that requires that *"New buildings are to present a strong built edge to Anzac Parade and Pine Avenue."*
4. The proposed development will also result in an improved urban environment, ensuring an orderly and economic use of land for urban consolidation in the Prince Henry site with minimal adverse environmental and amenity impacts on neighbouring uses.

The ability of the proposal to meet these principles/objectives forms the fundamental elements for justifying 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 Conservation Area under Randwick Local Environmental Plan Amendment No.28. The site and a number of buildings on it are listed on the State Heritage Register for its Aboriginal, natural, landscape and built heritage values.

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 and Development Control Plan for residential use of the previous hospital site.

### The Subject Site

The site is in the western part of the development area, with Lots 13 and 11 forming the entrance to the site from Anzac Parade. The site is bounded by Anzac Parade to the west, Pine Avenue to the north, Brodie Avenue to the east and Lots 20 and 23 to the south. The subject site is located within Precinct P2 as identified in the Prince Henry Site Development Control Plan.

Heritage element	Applies
Built elements in the vicinity	<ul style="list-style-type: none"> <li>• Clock and clock tower, water tower and wishing well</li> <li>• Entrance Gates, Gateposts and Gatehouse</li> <li>• Historic Precinct</li> <li>• Flowers Wards</li> <li>• Pathology Department Building</li> <li>• Artisans' Cottages</li> <li>• Significant Road Alignment</li> <li>• Former water reservoir</li> </ul>
Landscape elements in the vicinity	<ul style="list-style-type: none"> <li>• Landscape setting and curtilage associated with entrance elements</li> <li>• Avenue of Norfolk Island pines</li> <li>• Sandstone outcrops</li> </ul>
Aboriginal archaeological zone	Zone 2- High Sensitivity
Aboriginal identified site	No
Historical archaeological zone	Zone 7- former Prince Henry Hospital Complex
Historical identified site	No
Little Bay Geological site	No
Remnant native vegetation in the vicinity	No

### The Proposal

The proposal is for a four level mixed use development comprising ground level retail/commercial with three residential levels above. Car parking is provided at ground level and in a basement carpark.

### Submission

The development application submission includes a Heritage Impact Statement prepared by Tanner Architects for Lots 13 which refers to relevant conservation policies contained in the Specific Elements Conservation Policies for surrounding built elements, and to the policies for new development contained in the DCP for the site. The submission notes that the proposal will generally have either a neutral or positive impact on significant built elements in the vicinity, but that the potential negative impact on the adjacent Flowers Ward due to the additional height is mitigated by the strong horizontal line of the single storey podium, by the modulation of the east

elevation and the slender footprint of the building. In relation to Archaeology, the HIS notes that previous excavation work has been carried out under an Excavation Permit and that demolition may have disturbed or destroyed indigenous and non-indigenous relics. The proposal would impact on the identified strip along Anzac Parade which requires further assessment, including archaeological supervision in accordance with the processes set out in the AMP.

### Approvals

As the site is listed on the State Heritage Register, the proposal generally needs to be the subject of an Integrated Development Application. As the NSW Heritage Office is the consent authority for the application, Council cannot issue development approval until the Heritage Office has provided conditions of consent.

Site specific exemptions for the Prince Henry site for new single residences and multi-unit residential buildings which comply with the Prince Henry site DCP were gazetted in June 2005. Under the Prince Henry Site Specific Exemptions, development which complies with the identified sections of the Prince Henry DCP and the relevant heritage management plan does not need to be referred to the NSW Heritage Office for approval. Exemptions apply to development outside the Historic Precinct where the proposal complies with the Height and Setback requirements of the DCP, and where non-compliance with a number of identified sections of the DCP will not result in heritage impacts. It appears that the proposal does not comply with the DCP height requirements and that Heritage Office consent is required.

DCP standard	Complies	Subject to Site Specific Exemptions
Height	No	No
Setback		

### Comments

The proposal appears to be generally consistent with the siting requirements of the Prince Henry Site Development Control Plan, although non-compliances have been identified relating height. The footprint of the building defines an open space area on the corner of Pine and Brodie Avenues, allows views towards adjacent significant buildings and retains an open layout for these structures. The finishes board and schedule indicate a combination of solid surfaces in rendered masonry and clay tiles, with glazed openings and balustrades screened by fixed and operable metal louvres. Rendered masonry and metal louvres are neutral in colour with contrast provided by the clay tiles. The proposed façade treatment, and colours and finishes to the building provide reasonable uniformity and compatibility with the design of the adjacent new buildings within the Prince Henry development site.

### Recommendations

The following conditions should be included in any consent, in addition to any provided by the NSW Heritage Office: "

(Comment: The Heritage Planner's recommended conditions will be applied in any consent for the application should approval be granted).

### 6.2 Development Engineering Comments

Council's Development Engineer advises as follows:

An application has been received for the construction of a four storey mixed retail/residential building at the above site containing 60 units, 845m<sup>2</sup> of retail/commercial floor space and 2 levels of carparking for 105 vehicles with associated strata subdivision.

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### Drainage Comments

All stormwater leaving Lot 13 must be discharged to the new storage pond (located adjacent to Fairway 7 within the Coast Golf Course), via the underground drainage system in Pine Avenue. The site drainage system shall be connected directly into the underground street drainage system through a grated inlet pit.

All stormwater shall be taken through a sediment/silt arrester pit prior to being discharged from the site.

### Traffic Comments

Traffic Generation: The Traffic and Parking Report submitted with this application has analysed the effects of the amended proposal and determined that there will be a significant reduction in peak period traffic generation resulting from the amended proposal for Lot 13, with some 105-115 vehicles per hour two way during peak periods (as opposed to the configuration approved in the Master Plan which found 270-280 vehicles per hour two way during peak periods).

Loading Provisions: The applicant was advised at prelodgement stage that two loading bays were required to be provided within the development site, sized for the maximum size of service vehicle that will be required to service the site at any time.

The submitted plans show the provision of two loading bays as required, sized to accommodate small rigid trucks with adequate area being available for these service vehicles to enter the site from Brodie Avenue, turn around within the site and exit in a forward direction.

### Waste Comments

Residential waste: To minimise the number of bins presented at the kerb for collection, Council would generally require a development of this size to provide garbage chutes and compactors to reduce the required number of residential garbage bins by half. Under such an arrangement the residential garbage room/s would need to be sized to contain the compactor/s (with safe working area around) and an additional 19 x 240 litre bins. Recyclables cannot be compacted and the recycling room should be sized to contain a total of 37 x 240 litre recycling bins.

The provision of garbage chutes and compactors may be difficult to accommodate in the subject development given the number of cores that are proposed. Consequently, the applicant has considered alternative waste management arrangements that will still meet the objective of minimising the number of bins that need to be presented at the kerb for collection. The arrangement proposed in the submitted development application is to provide waste storage areas within the site as well as a bin 'holding' area close to the site boundary, for transfer to the kerbside on the day of collection.

It is noted that although the waste storage area provided within the Basement Level are sized to contain 69 x 240 litre bins as required.

Commercial waste: A separate waste storage area shall be provided for the commercial/retail component of the development. The submitted Waste Management Plan states that 8 x 660 litre waste bins will be required based on 2 daily collection rate and that a private waste contractor will collect this waste from within the site. It is noted that a waste storage area has been provided on Level 1 of the site adjacent to the vehicular access and loading dock sized for 8 large bins.

General Comments: It is noted that the submitted plans show the residential waste storage area being located within the Basement Level, accessed through an internal driveway with grades of up to 1 in 6. This is too steep for the manual transporting of bins up to street level for collection, hence the applicant's Waste Management

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Consultant has stated that "a motorised trolley system will be provided and utilised by the waste caretaker to assist with the transportation of bins". Details of the proposed motorised trolley system shall be submitted to the Council for approval prior to the issuing of a construction certificate.

Noting that a waste caretaker will be required to manage the waste storage and collection on the site as detailed in the submitted Waste Management Plan; a condition has been included in this report to ensure that a caretaker is employed as necessary.

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### Geotechnical Comments

The applicant was advised at prelodgement stage to undertake suitable geotechnical investigation to determine whether the subject development site will be affected by continual seepage flows. A Geotechnical Report by Douglas Partners dated April 2005 has been submitted with the development application and states that permanent groundwater aquifers were not encountered on the subject site, although there is likely to be some minor seepage at the soil bedrock interface. However, noting that free groundwater was observed in one of the test bores, indicating that there may be a shallow intermittent groundwater table present; it is recommended that the basement carpark be suitably tanked and waterproofed. A condition has been included in this report to the address the matter.

Should the application be approved the following conditions shall apply"

**Comments :** The applicant has now provided additional information showing the co-location of all residential (37 general waste and 37 recycled waste bins) and commercial (8 waste bins) waste bins in a common area adjacent to the entrance driveway on the ground floor. This arrangement has been assessed and is considered adequate subject to kerbside collection on Brodie Avenue which will be required in a condition should approval be granted.

### 6.3 Environmental Health Comments

The Manager of Environmental Health and Building Services advises as follows:

#### "Key Issues

Land contamination: SAS has been issued for this site by ERM, Paul Steinwede dated 19/05/05. Unexpected finds protocol exists for this site. Appropriate conditions are to be imposed on any consent to address this issue.

Acoustics: An acoustic report has been submitted with the proposal. The noise from the surrounding environment and the proposed development has been addressed. Appropriate conditions should be included in any proposal.

Grey water treatment and reuse: The proposal includes the treatment and reuse of grey water. Appropriate conditions are to be imposed to address this matter.

Commercial/Retail Occupancies: Shall be subject to separate applications for the use and operation of these units. Consideration should be given by the assessment planner as to restricting the hours of use for the proposed loading/delivery zone.

#### Recommendation

Should the application be approved, the following conditions should be included:"



## 6.4 Building Services Comments

### "The Proposal

The proposal provides for the construction of a new 5 storey mixed residential and commercial development with 2 levels of basement car park.

### BCA Building Classification

Class - 5 or 6 (Office or Retail/Shops)  
Class - 2 (Residential units)  
Class - 7a (Carpark)

### Background

Vacant land that is part of a recent crown land subdivision.

### Key Issues

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 would need to be incorporated in the documentation for a construction certificate.

Access for people with a disability:

The proposal appears to demonstrate compliance with the BCA requirements and Disability Discrimination Act (DDA) objectives, in relation to access and facilities for people with a disability.

Access for people with a disability is required to be provided to the basement car park and the ground floor shops, sanitary facilities for people with a disability and 1 accessible disabled unit per each 14 units is also required to be provided to the development, in accordance with the provisions of Councils Multi-unit housing DCP, however, this is overridden by a separate DCP for this locality and allows 3 accessible units in this 53 unit development.

### **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 30 January 2008 with its accompanying 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 30A	Development of Certain Land in Zone No. 2D
Clause 40	Excavation and filling of land
Clause 40A	Master plans
Clause 43	Protection of heritage items, heritage conservation areas and relics

Clause 30A of the Randwick LEP 1998 states that the controls applicable to land Zone 2D are identified in the supporting built form control maps applicable to the specific site (in this case the Prince Henry Site) which are as follows:

Control	Requirement	Proposal	Complies
Maximum number of storeys	4 storeys	4 storeys	Yes
Maximum FSR	Maximum 1.2:1	1.2:1	Yes
Maximum Wall Height	Maximum 14m	Western Elevation = max 12.4m Eastern Elevation = max 14.8m	No (SEPP No1 Objection submitted)
Maximum Building Height	Maximum 15m	Western Elevation = max 12.4m Eastern elevation = max 14.8m	Yes
Minimum Landscaped Area (% site area)	Minimum 40%	65%	Yes

### 8.2 Relevant State Environmental Planning Policies

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

- State Environmental Planning Policy No. 55 – Remediation of Contaminated Land
- Draft State Environmental Planning Policy (Application of Development Standards) 2004 ('Draft SEPP 2004')

The application of these policies to the proposal is addressed in Section 10.1 below.

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## 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 Precinct P2 and, as such, is subject to the following specific precinct controls:

Control	Requirement	Proposal	Complies
Maximum number of storeys	4 storeys	4 storeys	Yes
Maximum FSR	Maximum 1.2:1	1.2:1	Yes
Maximum Wall Height	Maximum 14m	Western Elevation = max 12.4m Eastern Elevation = max 14.8m	No (SEPP No1 Objection submitted)
Maximum Building Height	Maximum 15m	Western Elevation = max 12.4m Eastern Elevation = max 14.8m	Yes
Minimum Landscaped Area (% site area)	Minimum 40%	65%	Yes
Minimum Soft Landscaped Area (% site area)	Minimum 20%	25%	Yes
Setbacks	<p>Front Setback to Anzac Parade – 7m (comprising 3m landscape strip and 4m general building)</p> <p>Front Setback to Pine Avenue – minimum 2m at the eastern end and increasing to an unspecified dimension at the corner of Pine Avenue and Anzac Parade.</p> <p>Setback from Brodie Avenue ranging from 2m at the north-eastern corner to 10.5m at the south-eastern corner.</p>	<p>Front Setback to Anzac Parade – 3m landscape strip and no 4m general building setback.</p> <p>Front Setback to Pine Street – minimum 2m at the eastern end is observed with minor encroachment in the unspecified setback portion at the corner of Pine Avenue and Anzac Parade.</p> <p>Encroachment of the building in the south-eastern corner to Brodie Avenue.</p>	<p>No</p> <p>Yes</p> <p>No</p>
Articulation zone	Min. 30% and max 60% of building articulation area to	59% of the total designated articulation area of	Yes

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Control	Requirement	Proposal	Complies
	be used for building articulation.	building will be taken up for building articulation.	

The DCP also contains a range of performance criteria for five key elements of the DCP namely site context, sub-division and amalgamation, building and site design, sustainable design, and facilities and access. The relevant performance criteria relating to apartment buildings are assessed in Sections 10.3 and 10.4 below where any inconsistencies between the proposal and these performance criteria are discussed accordingly.

## 9.2 Development Control Plan - Carparking

The DCP – Parking requires carparking to be provided for the proposal as follows:

USE	REQUIREMENT (DCP – Parking)	PROPOSED NUMBER AND/OR FLOOR AREA	REQUIRED PROVISION	PROPOSED PROVISION
Residential	1 space per one bedroom dwelling	27 x one bedroom dwellings	27 spaces	68 residential carspaces
	1.2 spaces per two bedroom dwelling	30 x two bedroom dwellings	36 spaces	
	1.5 spaces per three bedroom dwellings	<b>3 x three bedroom dwellings proposed</b>	4.5 spaces	
	Visitor: 1 space per 4 units	Total dwellings = 60	15 spaces	14 spaces
Retail/Commercial	1 space per 40 sqm GFA	845 sqm	21	23 spaces
<b>TOTAL</b>			<b>104 spaces</b>	<b>105 spaces</b>

## 9.3 Section 94 Contributions Plan

Section 94 contributions are not payable for developments that meet the Deemed DCP standards as the open space and community facility provisions in the Deemed DCP were designed to meet the requirements of the projected number of residents established in the Deemed DCP. However, the proposal exceeds the projected number of dwellings established in the Master Plan/Deemed DCP by 25 units. As such, a Section 94 contribution is chargeable and a condition requiring this will be applied should approval be granted.

## 9.4 Rainwater Tanks Policy, 2003

Council's Rainwater Tanks Policy requires installation of rainwater tanks for all residential development. Council's Strategic Planner has advised that the requirement for rainwater tanks does not apply in the subject site as the stormwater from the site will be harvested into designated storage ponds to contribute to the whole of Prince Henry site irrigation needs under the total water cycle strategy of the DCP. The Deemed DCP also recommends collection of roof water for irrigation as per the total water cycle strategy. Furthermore, the applicant has provided a BASIX report that shows that the proposal achieves the energy, water and thermal comfort targets of BASIX.

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## 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. The former Prince Henry Hospital site is located within a conservation area, which has been gazetted in the State Heritage Register, so that any development proposal requires the consent of the Heritage Council of NSW. Accordingly, the application was referred to the Council as integrated development. The Heritage Council advised of its approval of the integrated development application on 30 January 2008 with its accompanying general terms of approval. The general terms of approval have been included as conditions of consent.

#### 10.1.2 Randwick Local Environmental Plan 1998

##### Clause 21 Sub-division

The draft strata plans provided are consistent with the architectural plans that will be the subject of approval if granted. The proposed sub-division is consistent with Part 3.0 of the relevant requirements of the Prince Henry DCP. Standard conditions relating to sub-division will be applied should approval be granted.

##### Clause 30A (4) Development of certain Land in Zone No 2D (maximum wall height)

The proposal does not comply with the maximum wall height control of the Randwick Local Environmental Plan 1998 as follows:

Control	Requirement	Proposal	Complies
Maximum Wall Height	Maximum 14m	Western Elevation = max 12.4m Eastern Elevation = max <b>14.8m</b>	No

The applicant has submitted an objection under State Environmental Planning Policy No.1 - Development Standards, and has argued that strict compliance with clause 30A (4) of Randwick LEP No 1998 is unreasonable and unnecessary. In assessing the applicant's SEPP No. 1 objection the following matters are addressed:

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

The building and wall height controls in question are development standards contained in the Randwick LEP 1998.

#### 2. The underlying object or purpose of the standard

The underlying object/purpose of the standard, as outlined in Randwick LEP 1998, is:

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

### 3. Consistency of the development with local planning objectives for the locality, aims of SEPP No.1 and the objectives of the Act.

The proposed development will be consistent with planning objectives for the locality in that:

1. It fulfils the Masterplan principle contained in the Prince Henry Masterplan (Section 5.5 page 10), namely to "Strengthen the town scape qualities of the Anzac Parade boundary of the site to the north and south of the existing gates"
2. It will promote the redevelopment of the Prince Henry Site, in the case of Lot 13, for multi-storey mixed retail, commercial and residential development to form the local neighbourhood hub as envisaged in the Prince Henry Master Plan/Deemed DCP and Prince Henry DCP.
3. It will implement the Prince Henry DCP Precinct P2 Performance Criteria (Section 7.2, page 54) that requires that "New buildings are to present a strong built edge to Anzac Parade and Pine Avenue."
4. The proposed development will also result in an improved urban environment, ensuring an orderly and economic use of land for urban consolidation in the Prince Henry site with minimal adverse environmental and amenity impacts on neighbouring uses and locating these in close proximity to public transport, regional centres and services.

The aims and objectives of SEPP No.1 are to provide:

"provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act."

The objects of the Act under Section 5 (a) (i) and (ii) are:

"to encourage:

- (iii) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purposes of promoting the social and economic welfare of the community and better environment;
- (iv) The promotion and co-ordination of the orderly and economic use and development of land."

The variation from the height controls is not inconsistent with the aims of the SEPP No.1 because it would not detract from the objects of the Act under Section (a) (i) and (ii), specifically, in that the resultant development would promote the orderly use and development of the subject land in line with the overall Prince Henry Master Plan/Deemed DCP and DCP – Prince Henry.

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

It is considered that a development compliant with the prescribed maximum building and wall height would be unreasonable in the subject site for the following reasons:

- the extent of the non-compliance is minor such that any requirement for compliance will not result in a builtform that would be contrary to the above-listed planning objectives for the locality in the preceding section above.
- any requirement to delete the areas in breach of the height control will be of no significant benefit in terms of reducing visual bulk and scale of the buildings and the amenity of adjoining and surrounding properties.
- the potential for the non-compliance to result in an undesirable built form is unlikely as the proposal exhibits a thoughtful design that implements an appropriate degree of articulation and facade treatment that ameliorates the built form's presentation to Anzac Parade and Pine Avenue and lessens the visual impact of the proposal on these streetscape.
- It would preclude the redevelopment of the site for an effective neighbourhood hub with mixed retail, commercial and residential uses which collectively is of a "higher order" use than the other parts of the Prince Henry site.
- It would preclude the provision of a building with a distinct architectural urban design comprising primarily a slender, sinuous curvilinear builtform with a balance of vertical and horizontal elements to provide symmetry that crucially will strengthen the existing streetscape and future townscape of this corner of Anzac Parade as envisioned in the Prince Henry Master Plan/Deemed DCP and Prince Henry DCP.
- It would preclude the provision of a landmark building to mark the entry point of the Prince Henry site at Pine Avenue.

In contrast, the proposed development would allow for a reasonable redevelopment of the land but with a better urban outcome in terms of the following:

- bulk and scale that would not be visually intrusive in the existing coastal and heritage setting given that the proposal will occupy a smaller footprint than that allowed for in the DCP (thus providing for larger public gathering places at ground level)
- siting and orientation of the proposed building to enhance views of adjoining heritage items including the Flowers Wards and surrounding heritage and coastal landscape settings
- the proposal will also maintain adequate levels of amenity for the proposed development especially in terms of solar access, ventilation and landscaping.
- the new building will not have an adverse impact on the amenity of adjoining and neighbouring properties in terms of solar access, privacy and views (see Section 10.4.2.3 below).

In view of the above, it is considered that the compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the proposal meets with the purpose of Clause 30A(4).

5. Whether the objection is well founded.

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

- Articulated the underlying stated objectives of the standard clearly.

- Demonstrated that there are no adverse environmental impacts arising from the proposed development in terms of view loss, loss of privacy, overshadowing and general overbearing impacts.
- Addressed the consistency of the proposed development with the underlying stated objectives of the standard, the local planning objectives for the locality, and objectives of the Act.
- Stated why compliance with the development standard is unreasonable and unnecessary, namely that:
- The proposed non-compliance do not result in any inconsistencies with the objectives of either the 2D zone in which the site is located or the general objectives for the built and natural environment and amenity or the objectives of the FSR standard.
- The extent of the non-compliance is relatively minor and does not result in any substantive adverse environmental impacts in terms of overshadowing of adjoining residential development or heritage items, traffic and acoustic/visual privacy nor do they compromise the amenity of adjoining development or the immediate locality.
- The proposal will provide a high quality contemporary design that is sympathetic to the desired future character of the area and provides for the immediate needs of the existing and future residents of the locality.
- The scale and nature of the non-compliances do not give rise to matters of state or regional significance, nor do the non-compliances adversely impact the public interest.

It is considered that the SEPP 1 objection is well founded and should be supported as the height, bulk and scale of the proposal would not be visually intrusive in the existing coastal and heritage given the smaller footprint than that allowed for in the DCP, the proposal presents a strong built edge to Anzac Parade and Pine Avenue in line with the townscape principle of the Prince Henry Masterplan, and the localised nature of the breach in the maximum building height control.

#### **Clause 40      Excavation and filling of land**

Clause 40 of the RLEP contains provisions for undertaking of excavation and filling of land. The proposal will require earthworks to be undertaken to construct the buildings and basement car parking areas. This work will not result in any significant impact on the topography of the site, is unlikely to interrupt the drainage patterns of the site or result in soil instability and will not adversely impact upon the scenic quality of the site and locality. Accordingly, the proposal is acceptable in relation to the provisions of Clause 40.

#### **Clause 40A      Master plans**

A Master Plan for the Prince Henry site, inclusive of the subject site, was adopted in December 2001 subject to a number of matters being addressed in a revised Master Plan and subsequent development applications for the subject site. A further revised Master Plan consistent with the required amendments 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. The Deemed DCP acknowledged the provision of residential apartments in the subject site. The proposal is consistent with the Deemed DCP with the exception of the number of apartments units which will exceed the required number by 25 units. Despite the increase in the number of dwellings, the proposal overall will not give rise



to any adverse impact on the amenity of adjoining and neighbouring properties in terms of solar access, privacy and views. In particular, the applicant's traffic analysis indicates that the increase in number of dwellings in Lot 13 will not detrimentally affect the service levels of the surrounding roads and intersections with these networks operating at Levels of Service B or better during peak period.

Additionally, the increase in the number of dwellings is considered acceptable in view of the fact that the proposed building will not be visually intrusive as the proposal complies with the maximum building height control and the building footprint will be significantly smaller than that allowable under the Prince Henry DCP thus allowing for larger public spaces at ground level; and the proposed development will not create any adverse impact on the amenity or visual quality of the locality. Furthermore, a development contribution 94 will be applied for the excess number of dwelling units.

#### **Clause 43 - Protection of heritage items, heritage conservation areas and relics**

Clause 43 of RLEP98 relates to heritage items and heritage conservation areas. The subject site lies within the Prince Henry Site which is located within a conservation area that has been gazetted in the State Heritage Register. A Heritage Impact Assessment has been prepared and lodged with the application which has been assessed by Council's Heritage Planner. In addition, as discussed earlier, the proposal has been referred to the Heritage Council of NSW as an integrated development and General terms of Approval have been received from the Heritage Council.

#### **10.2 Relevant State Environmental Planning Policies**

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

##### **SEPP 55 – Remediation of Contaminated Land**

This SEPP provides a state wide practice for the remediation of contaminated land. In relation to Lot 13, the subject site, a site audit statement (SAS) has been issued on 17 May 2005 indicating that the site has been remediated in accordance with the relevant standards for residential development contained in the Contaminated Lands Management Act 1997 and as per Council consent 1188/02 as amended (for the demolition of buildings and the remediation of the Prince Henry site was issued on 28 February 2003). Accordingly, the site will be suitable for the intended use.

#### **Draft State Environmental Planning Policy (Application of Development Standards)**

The Draft SEPP 2004 seeks to replace the provisions of SEPP 1 and has been publicly exhibited (concluding on 18 June 2004). The new SEPP will introduce new provisions for assessing whether flexibility of a planning standard are acceptable or not.

Clause 7 of the Draft SEPP specifies that an application for departure from a development standard must demonstrate that the departure will result in a better environmental planning outcome than that which could have been achieved on the site had the standard been complied with and that the proposed development will be in the public interest by being consistent with any aims and objectives expressed or implied from the zone, the development standard, or any relevant environmental planning instrument. The additional tests 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 controls. Notwithstanding, that the SEPP is a draft document requiring consideration under section 79C of the EP&A Act, Clause 14 of the Draft document includes savings provisions that any

development application made and not determined when the draft SEPP is gazetted is to be assessed against the existing provisions of SEPP No. 1.

Further, legal advice provided to Council considers that the draft SEPP should not be given any significant weight, as its final form is neither imminent nor certain and would not apply given that it contains a provision saving the subject application. As such, further consideration of the Draft SEPP is therefore not required, however, it is considered that the proposal results in a better environmental outcome on the site than that which could have been achieved had the standards been complied with due to its design quality, in particular its scale and form within the streetscape.

### 10.3 Policy Controls – 79C(1)(a)

#### 10.3.1 Development Control Plan – Prince Henry Site

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 subject site is located within Precinct P1 of the DCP and the application complies with all the relevant prescribed controls for this precinct with the exception of the FSR, building, wall and storey heights, setbacks, soft landscaping and internal solar access. The non-compliance in the FSR and building, wall and storey height is addressed in the SEPP 1 objections (see Section 10.1.2 above). The variations from the setback, soft landscaping and internal solar access requirements are assessed as follows:

- The breach in setbacks is localised along Anzac Parade and arises from the curved builtform of the proposal which, conversely, has provided opportunities for generous setbacks to be provided in the form of the large public gathering space in the north-east of the subject site along Pine Avenue. Accordingly, the encroachment of the proposed building in the south-eastern corner to Brodie Avenue is considered minor with the majority of the curved building line along this street well setback from this road and does not give rise to any adverse impact on the visual amenity of the streetscape on Brodie Avenue. The encroachment of the setback to Anzac Parade is acceptable as the site can allow for building edge along this frontage to strengthen the streetscape in this designated centre whilst peeling back at Pine Avenue to provide for public space. In addition, the proposal will maintain the mandatory 3m landscape strip to Anzac Parade which will be landscaped to soften the building along this edge.
- The shortfall in units gaining adequate solar access is minor (6 out of the total 60 dwellings proposed) and arises from constraints imposed on the builtform imposed by the shape and configuration of the subject site such that these 6 dwelling units are located in the centre of the proposed building block with a southerly aspect. Notwithstanding this, these dwelling units will have generous glazed openings and balcony areas to maximise daylight access into living areas.
- The floor to ceiling height of Level 2 will be 2.7m (compared with the 3m DCP requirement) is acceptable as this level will be for residential use and not commercial use.

The proposal generally complies with the range of performance criteria for five key elements of the DCP namely site context, sub-division and amalgamation, building and site design, sustainable design, and facilities and access.

### 10.3.2 Development Control Plan - Parking

The Prince Henry DCP states that car parking is to be provided in accordance with the DCP - Car Parking. Applying the carparking rate for multi-unit development, the proposal will require 68 residential, 15 visitor carspaces and 21 retail/commercial spaces. The proposal provides for 68 residential carspaces and 14 visitor carspaces and 23 retail/commercial spaces. The proposal complies with the carparking requirements of the DCP subject to a condition requiring 1 commercial space to be converted to visitor spaces.

### 10.4 Likely impact of the development - S79C(1)(b)

#### 10.4.1 Natural Environmental Impacts

There is no land containing Eastern Suburbs Banksia Scrub located in the vicinity of the subject site with the closest bushland located at a significant distance of more than 250 m to the north-east. In addition, the subject site being a vacant lot, contains no endangered flora or fauna that will be affected by the proposed development. Accordingly, the proposal will be acceptable in terms of natural environmental impacts which will be minimal, if not, nonexistent.

#### 10.4.2 Built Environmental Impacts

##### 10.4.2.1 Urban Design

The architectural design essentially comprises a curved building wrapping around the Pine Avenue /Anzac Parade corner extending in a curved/sinuous form down Pine Avenue peeling back into Brodie Avenue to form an open public space that also provides a vista to the Flowers Ward, the Clock Tower and down Pine Avenue towards Little Bay.

The proposal overall will have a combination of predominantly the following materials and finishes:

- Type 1A - Operable aluminium louvre panels and aluminium framed glazed balustrade behind the louvres denoting the external enclosures to each apartment.
- Type 1B - tile system fixed to regular panel module for solid sections of façade in natural colour ranging from sandstone to terracotta to relate to the facades of the Pathology Building, Clock Tower and Gatehouse and the overall coastal setting.
- Type 2 - paint finished masonry panels with vertical strip windows expressed also as a second layer behind the panelised façade of the Types 1A and 1B.
- Type 3 - Glazing between balconies and living areas and bedrooms typically comprising full height sliding doors.
- Type 4 - Shop front glazing on ground level.
- Type 5 - Paint finish masonry with vertical expression for non-glazed podium facades.

These materials and finishes have been provided in a sample board accompanying the DA. No objections have been raised by the SEPP 65 Design Review Panel to the materials and finishes and, accordingly, these colours, materials and textures are considered acceptable.

The articulation of the building has been located predominantly within the building footprint set by the Prince Henry DCP with a major portion of the allowable footprint

left unused accounting for generous public gathering open space along Pine Avenue. The applicant advises that the building form defines an entry to the Prince Henry site at Anzac Parade.

Under the provisions of SEPP 65, a Design Review Panel reviewed the proposal on 3 March 2008 and has found the proposal satisfactory on all the SEPP 65 assessment criteria and are subject to similar comments made for the proposed development under the previous DA No. 615/2006 as detailed below. The Panel's comments (in italics) are listed as follows (with Council's comments included where necessary):

# Item D14/08

## 1. Relationship to the Context of the Proposal

Generally the proposal creates a suitable gateway to the PHH development, provides the potential for good quality urban space to Pine Avenue and addresses the issues of the proximity to the Flowers Wards. The Panel reinforces its previous comments that the relationship and activation of the Anzac Parade frontage are important considerations, so that the site is not just conceived as a "gateway" to the PHH site, but as part of the new Anzac Parade precinct that has links from La Perouse through to Randwick .

The Lot 13 residential entry should be clarified with regard to the retaining walls, street levels, and internal planning. It should also re-address the access between the subject site and super lot 20 to the South.

**Comment:** The applicant has responded to the Panel's concerns by advising that the focal point of the building at the corner of Pine Avenue and Anzac Parade will be the primary residential lobby directly on this corner to address the intersection. This lobby also opens into a sheltered path linking the bus-stop on Anzac Parade to the retail strip in Pine Avenue. Both the path and associated landscaping will extend the frontage of the lobby further along Anzac Parade and address the Panels concerns regarding the retaining walls on Anzac Parade. The applicant's advice is considered reasonable and acceptable.

## 2. The Scale of the Proposal

The proposal exceeds the DCP (wall) height control for the site however the resultant increased density is supported by the Panel as the additional height does not negatively impact the surrounding development and has the potential to create a more successful and viable public realm and increase retail opportunities.

## 3. The Built Form of the Proposal

The built form, materials and details of the external façade are considered to be of high quality, and provide flexibility for the building occupants.

The outdoor eating area has yet to be clarified in the architectural drawings. The general concept shown on the landscape plan is acceptable however its real success will rely on appropriate sun shading, weather protection and the design for the canopy to assist in reducing acoustic problems between the retail and residential areas

**Comment:** The applicant previously responded to the Panel's query regarding the outdoor eating area by providing additional details of the design of this area (with the previous DA No. 615/2006) which include the use of a light weight tensile fabric structure for shelter to the outdoor café area. The tensile fabric structure will have saw tooth configuration with white fabric supported by slender steel columns (through association with the white sheets and bed curtains of the old hospital and reference to Christo's wrapping of Little Bay). These details will be applied to the current proposal under the subject DA. In addition, an urban tree grove to the north

of the seating area is proposed in the landscaping scheme which will provide further shelter to patrons and the public. In relation to potential acoustic impacts of the eating area, the applicant advises that the primary control of acoustic issues will be limited operating hours of the retail tenancies. Accordingly, a condition will be applied requiring separate development applications for the future retail tenancies which will assist in controlling hours of operation and public amenity.

#### 4. The Proposed Density

The Panel has often expressed its concern that the densities on PHH are not sufficiently high. The Panel supports the State Government's desire for greater density within metropolitan Sydney. The density proposed is higher than indicated in the master plan however the Panel considers that higher densities on this part of the site, in close proximity to Anzac Parade are appropriate and will better ensure the viability of the entrance retail area as a social space.

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

West and south west -facing bedrooms need a high level of insulation and sun shading, and opportunities for air movement. Increased ventilation to bedrooms with only one window should be considered. Ceiling fans should be considered for the bedrooms.

Foyers that do not receive any natural light or ventilation do not meet the environmental and amenity objectives of SEPP 65. It is desirable that ways of providing this be examined.

**Comment :** The applicant advises that western and south-western facades of the proposal will be protected by fixed horizontal sunshade elements and this can be verified in the plans and elevations for the proposal. Furthermore, more than 90 per cent of bedrooms in the proposal will have two openable windows or sliding doors giving light and air to the room. In relation to foyers/lobbies, the applicant advises that each of the apartment lobbies will have access to natural light ventilation on each level from the external façade. The amended floor plans confirm the applicant's advice. Overall, the applicant's advice is considered reasonable and acceptable in addressing the Panel's concerns.

#### 6. The Proposed Landscape

The landscape proposal should be further developed to reduce the visibility of retaining walls by the wall design and selection of planting. Usable space for the occupants should be increased and large beds of formally planted groundcover areas reduced.

**Comment:** The applicant advises that the Landscape Plans for the proposal indicates the use of a series of planting beds in front of retaining walls to provide appropriate screening of walls. This can be verified from the submitted landscape plans especially for areas along Anzac Parade and within the semi-enclosed internal landscaped podium courtyard. The applicant has also provided a modified landscape plan that increases useable landscape area for residents by replacing the central zone of ground covers and low planting with a lawn area. These elements provide a transition from the building form to the external areas and assist in visually connecting the building with its landscaped surrounds. Accordingly, the applicant's advice is considered reasonable and acceptable in addressing the Panel's concerns.

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

Apart from the resolution of the provision of natural light and ventilation to foyers, and the acoustic treatment for the outdoor entertainment areas this development will provide a high level of amenity for the building occupants and the public.

As previously requested, clerestory roofs have been added to increase the amenity to top floor apartments that do not have a northerly aspect.

**Comment:** The panel's concerns regarding acoustic impact of outdoor entertainment areas and natural lighting/ventilation of foyers and have been addressed by the applicant's response to points 3 and 5 respectively above.

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

As acknowledged by the applicant, final resolution of the public pathway to the south needs to be done.

**Comment:** A condition will be applied requiring details of design and security for the proposed southern pathway.

## 9. Social issues

The proposed development will enliven the entry to the Prince Henry redevelopment and should enhance the safety of the area.

## 10. The Aesthetics of the Proposal

Satisfactory.

### Summary and Recommendations

The Panel would like to emphasize that the design is of high merit. A good amount of time has been given to design development. This, combined with a clearly supportive client (Stockland), has given the Panel confidence that the project will continue to develop and eventually become a key contributor to the success of the whole PHH project.

The Panel considers that if the applicant addresses all the issues as outlined above, in association with the assessing planner, there is no need for it to see the application again.

#### 10.4.2.2 Heritage Impact

The Prince Henry site and a number of the buildings on it were listed on the State Heritage Register in May 2003. 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 site also encompasses Aboriginal, natural, landscape and built heritage values. The built heritage on the site includes many buildings which were part of the former Coast and Prince Henry Hospitals on the site.

In relation to the subject site, a Heritage Impact Statement (HIS), prepared by Tanner Architects Pty Ltd, was submitted with the application. The HIS indicates that the proposal will generally have either a neutral or positive impact on significant built elements in the vicinity, but that the potential negative impact on the adjacent Flowers Ward due to the additional height is mitigated by the strong horizontal line of

the single storey podium, by the modulation of the east elevation and the slender footprint of the building.

Council's Heritage Planner advises that as the proposal appears to be generally consistent with the siting requirements of the Prince Henry Site Development Control Plan, although non-compliances have been identified relating height. The footprint of the building defines an open space area on the corner of Pine and Brodie Avenues, allows views towards adjacent significant buildings and retains an open layout for these structures. The finishes board and schedule indicate a combination of solid surfaces in rendered masonry and clay tiles, with glazed openings and balustrades screened by fixed and operable metal louvres. Rendered masonry and metal louvres are neutral in colour with contrast provided by the clay tiles. The proposed façade treatment, and colours and finishes to the building provide reasonable uniformity and compatibility with the design of the adjacent new buildings in the Prince Henry site.

Overall, the proposal is considered reasonable and acceptable in terms of its impact on the heritage significance of the Prince Henry site, and specifically, the nearby significant buildings and place primarily as the site has been cleared of built structures and landscape features.

**The Heritage Council of NSW has provided appropriate conditions in its general Terms of Approval issued for the proposed development on 30 January 2008.**

#### **10.4.2.3 Sunlight, Privacy and Views**

The DCP requires that solar access to at least 50% of the communal and private open space of adjoining properties must be achieved for at least 3 hours 9am to 3pm midwinter. The subject site is bounded by roads on the western northern and eastern sides, and by the open areas of the St Lukes seniors living housing at Lot 20 to the south. Shadow diagrams submitted with the application indicate that at 9am in winter overshadowing will occur onto Anzac Parade, a small portion of the Seniors Living accommodation on Lot 20 and Henry Trading Post building. The winter morning shadows will also cover the entire central podium garden. By 12 noon the overshadowing will be largely confined to the subject site with about two-thirds of the podium garden in shadow. At 3:00 pm the shadow impact will be confined to the podium garden and across Brodie Avenue to the south east and a small portion of Flowers Ward 1 beyond. Overall, the external overshadowing impacts of the proposal will be acceptable as the site is largely bounded by roads and open space of the adjoining Lots 20 and 23 such that no significant overshadowing of surrounding residential properties will occur.

The DCP requires that all new dwellings must achieve 3 hours of solar access 9am to 3pm midwinter. Within the proposed development, of the 60 dwellings proposed, all but 6 apartments will satisfy the DCP requirement. This shortfall occurs due to the configuration and depth of the subject site and the need to achieve a balance between urban design objectives and ESD targets (ie., a building that presents an attractive edge and builtform to Anzac Parade and Pine Avenue whilst achieving solar access and natural ventilation targets for apartments internally). In this context, the shortfall is considered acceptable given that a significant majority of dwellings achieve dual aspect and natural ventilation, and the six apartments will achieve good daylight access through the size and configuration of openings and balconies.

North facing solar panels have been located on the roof of the development in accordance with the DCP.

In terms of privacy, the proposal will perform well in that:

- All apartments will all face relevant street-frontages to Anzac Parade, Pine Avenue and Brodie Avenue.
- The proposal will have a generous separation distances in excess of 20 m to the future residential uses across Pine Avenue in Lot 11 to the north; the new Coperture apartment building (former Pathology Building) in Lot 14 to the north-east south; and to the seniors living development in Lot 20 to the south.

In terms of views, the proposal will maintain the view-sharing principles of the Prince Henry DCP as the proposal, whilst breaching the maximum wall height control, is located at the top-end of Pine Avenue at the western-most border of the Prince Henry site to Anzac Parade.

Overall, the proposal is satisfactory with regard to solar access, privacy and views.

#### 10.4.2.4 Traffic and access

The proposal will have an increase of 25 dwelling units over that projected in the Master Plan/Deemed DCP. Notwithstanding this, the applicant's traffic report indicates that the proposal is expected to generate approximately 105 to 115 vehicles per hour two-way during the morning and afternoon peak periods. This compares with the approved Masterplan traffic generation of 270 to 280 vehicles per hour two-way during peak hours. The current proposal therefore results in a significant reduction in peak period traffic such that adjoining/surrounding intersections will operate at Levels of Service B or better during peak periods. Hence, the lower traffic generation under the current proposal for Lot 13 will be readily catered for in the surrounding road network.

The applicant's traffic analysis considered reasonable and appropriate. Accordingly, the traffic generation in the proposed development is not considered to have a significant traffic impact on the adjacent classified road network as the traffic generation will be significantly less than that assessed in accordance with the Master Plan.

#### 10.4.2.5 Ecologically Sustainable Development

The Prince Henry DCP requires the preparation of a Sustainability Building Report by an appropriately qualified professional to improve the energy efficiency of the proposed building. The applicant has provided a Sustainability Report prepared by a consultant engineer, incorporating a BASIX assessment of the proposal in accordance with BASIX modelling requirements for multi-unit housing. The assessment shows that the proposed development will achieve a 38% energy saving target which would comply with the 30% saving target under BASIX, and a 64% water saving target which would comply with the 40% water saving requirement under BASIX. Accordingly, the proposal is considered acceptable in terms of energy and water conservation.

The SEE states that the proposal will incorporate the following sustainability measures:

- Building orientation to provide future occupant with optimum sun-control.
- Building materials that provide a balance of external insulation for thermal protection and internal thermal mass for heat absorption.
- Use passive design measures including natural cross-ventilation and external shading to achieve maximum thermal comfort.



- Use sun control elements comprising a combination of vertical and horizontal external shading devices, internal blinds and glare control.
- Building to be insulated with a minimum R1.0 roof insulation and R1.5 wall insulation as recommended in the BASIX Report
- Use of high efficiency lighting such as compact fluorescent with dimming control or zoned switching to control light levels.
- Landscaping designed to require minimal irrigation.
- Use of best practice water management solutions including AAA rated fixtures and ratings and dual flush WCs.

Overall, the proposal is considered acceptable in relation to Ecologically Sustainable Development issues.

#### **10.4.2.6 Facilities and Access**

The performance criteria for facilities and access generally apply to multi-unit housing developments. The development provides for pedestrian access from all street fronts as per the Master Plan/Deemed DCP and Prince Henry DCP requirements.

The applicant provided an access report prepared by an access consultant which considers the proposal against the relevant Australian Standard, BCA and Disability Discrimination Act (DDA). The report indicates the proposal complies with the accessibility and adaptability requirements of the Australian Standard 4299 – Adaptable Housing and AS1428 – Design for Access and Mobility. In addition, the consultant advises that the proposed development will provide the necessary visitability and adaptability design requirements to satisfy the Prince Henry DCP and SEPP 65. Accordingly, the proposal is acceptable in relation to wheel-chair and barrier free access.

#### **10.5 Site Remediation**

A site audit statement (SAS) has been issued for the subject lot, Lot 13, on 17 May 2005, indicating that the site has been remediated in accordance with the relevant standards for residential development contained in the Contaminated Lands Management Act 1997 and as per Council development consent No. 1188/02 as amended (for the demolition of buildings and the remediation of the Prince Henry site was issued on 28 February 2003). Accordingly, the site will be suitable for the intended use.

#### **10.6 Social and Economic Impacts – S79C(1)(b)**

The proposal will provide a range of retail and commercial services to serve the needs of the local community. The residential component will increase the availability of housing and promote the objectives of the zone with the effect that it would bring more people to the site resulting in a new community likely to include young families and “empty nester” household. The added population will generate additional needs for businesses, employees and patrons, which will in turn encourage the location of services and facilities into the broader area.

Overall the proposal presents a positive impact within the site and locality.

#### **10.7 Suitability of the site – S79C(1)(c)**

The subject site is part of the developable land within the Prince Henry Site which is identified in the revised Master Plan adopted by Council on 27 May 2003 (now referred to as a Deemed DCP). In doing so, Council considered the suitability of a range of proposed landuses and their location within the Prince Henry site. The subject site is specifically identified in the Deemed DCP as a location for a commercial hub forming part of a neighbourhood activity centre. The proposal generally is consistent with the terms of the master plan and, as demonstrated above, will not have an adverse impact on any item of environmental, archaeological, heritage or cultural significance.

The site has been remediated in accordance with the relevant standards for residential development contained in the Contaminated Lands Management Act 1997 and as per Council consent 1188/02 as amended. A site audit statement (SAS) has been issued for the subject Lot 13.

#### **10.8 Any submissions made – S79C(1)(d)**

The proposal being integrated development was notified and advertised for a period of 30 days between 9 November 2007 and 14 December 2007. One submission was received by Council during this notification/advertising period. The issues raised in the submission has been addressed in Section 5 above.

#### **10.9 The public interest – S79C(1)(e)**

The proposed development is consistent with the deemed DCP and the Prince Henry DCP and will provide the local community with a future neighbourhood centre in the subject lot. As a consequence, the proposal will have a positive social benefit for the local community and is considered to be in the wider public interest.

#### **Relationship to City Plan**

The relationship with the City Plan is as follows:

##### **Outcome 5 : Excellence in urban design –**

The proposal has a superior architectural quality in that it has competently produced a modern and superior design and visual character that will enhance the entrance to the Prince Henry site on Anzac Parade (at the corner of Pine Avenue) thus contributing to the identified outcome for this major thoroughfare.

##### **Outcome 11 : A healthy environment –**

The proposal will promote the principles of environmental sustainable development (including solar access, cross ventilation and energy efficiency), comply with BASIX and occur on land that will be suitable for its intended use as required under SEPP No. 55 - Remediation of Contaminated Land.

##### **Direction 5a & associated key action : Improved design and sustainability across all development –**

The proposal will create a good contemporary architectural design for the subject site whilst maintaining the quality of the adjoining bushland and overall coastal setting. The proposal will therefore contribute to the overall pool of well-designed buildings in Randwick City that can be used as references for the development of design guidelines and programmes.

##### **Direction 11a & associated key action: Council is a leader in fostering sustainable practices -**

The proposed development will be designed in accordance with ESD principles (including solar access, cross ventilation and energy efficiency) and will incorporate a number of sustainability measures to achieve ventilation, thermal comfort, water conservation and energy efficiency.

#### **Financial Impact Statement**

There is no direct financial impact for this matter.

#### **Conclusion**

The proposal is permissible with the consent of Council on the subject site and generally complies with the aims and objectives contained in the RLEP. The proposal does not comply with the maximum wall height control. A SEPP No.1 objection to this

standard has been submitted with the application and considered to be well founded in the circumstances.

The proposal complies with all the requirements of the Prince Henry DCP with the exception of setbacks, internal solar access and commercial floor to ceiling height. These non-compliances have been assessed in the relevant sections of this report and found to be reasonable and acceptable.

The proposed development has been assessed by the Heritage Council of NSW and General Terms of Approval have been issued for the subject site which will be included as conditions of consent.

The proposal will not have a significant impact on surrounding properties and heritage items. The non-compliances with policy controls will not exacerbate impacts, subject to compliance with conditions of consent.

The application is recommended for approval subject to conditions.

### **Recommendation**

That:

- A. Council support the objection under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with Clauses 30A(4) of the Randwick Local Environmental Plan 1998 (as amended), relating to maximum wall height, on the grounds that the proposed development is consistent with the relevant 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. 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/915/2007 for the erection of a four storey mixed commercial/retail and residential development comprising of 60 dwellings and 2 levels of car parking for 105 vehicles, strata subdivision and associated works at 1-9 Pine Avenue, Little Bay, subject to the following conditions:
1. The development must be implemented substantially in accordance with the plans numbered DA-LT13-03 to DA-LT13-011, and DA-LT13-013, all Issue A, and stamped received by Council on 29 October 2007, the draft strata plans in 7 sheets prepared by Anthony Nicolaas Rood, Surveyor's Reference C403-011b.dwg to C403-017b.dwg dated/printed October 2007 and stamped received by Council 29 October 2007, the Sustainability Report Certificate No 161485M, 25 October 2007 and received by Council on 29 October 2007, 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. The colours, materials and finishes of the external surfaces of the new building are to be consistent with that indicated in the sample board accompanying the

subject development application and received by Council on 29 October 2007.

3. Development consent is required to be obtained in relation to the specific 'use and operation' of commercial tenancies/occupancies and 'shop fit out works', in accordance with the relevant requirements of the Environmental Planning & Assessment Act 1979.
4. Details of bicycle storage in the basement indicating compliance with the Development Control Plan – Parking shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.
5. Details of all fencing on site including all entrances and associated structures indicating compliance with Part 4.16 Fences of the Development Control Plan for Prince Henry Site shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.
6. One designated commercial car parking space on the ground level shall be converted to visitor spaces. Details shall be submitted to and approved by Council prior to a Construction Certificate being issued for the development.
7. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.
8. The reflectivity index of glass used in the external façade of the development must not exceed 20 percent.
9. 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.
10. Public access to the visitor's carparking spaces is to be maintained at all times and, if required, an intercom system is to be provided adjacent to the vehicular entrance to the carpark, together with appropriate signage providing instructions for use. This approval does not include the installation of any roller doors or gates or the like to the carpark, without the prior development consent of Council.
11. Details of design and security of the proposed southern pathway shall 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 development. The design and security of the proposed pathway shall include, but not be limited to, the following:
  - Provision of appropriate lighting levels along the pathway
  - Provision of tree planting in the pathway with appropriate scale and shelter.
  - Provision of a stepped podium in the central courtyard where walls above 1.5m are kept to a minimum and generally setback from the easement boundary to allow broader planting areas.
  - Provision of path levels to be designed to comply with AS 1428.
12. 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

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to issuing a construction certificate and an occupation certificate, respectively.

13. There must be no encroachment of the structure/s onto Council's road reserve, footway or public place, unless written permission has been obtained from the Council beforehand.
14. 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 approved paving or the like on the ground) without the written consent of Council.
15. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) and go to the Building, Developing and Plumbing, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans before commencing any works.

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

16. Upon completion of the development and prior to the issuing of the occupation certificate, documentary evidence is to be submitted to the Council by the Principal Certifying Authority (or other suitably qualified person on behalf of the owner of the premises, to the satisfaction of Council) which confirms that the development has been carried out in accordance with the relevant development consent conditions.
17. The registered proprietor of the land the subject of this consent shall enter into a positive covenant that no right of exclusive use and enjoyment of the whole or any specified part of the area or areas designated as common area or similar in the approved plans will be conferred on any person or persons without the prior approval of Randwick City Council.
18. Where the plans which are the subject of this consent reserves parking spaces and/or courtyards for the exclusive use and enjoyment to an occupier of the land, the registered proprietor shall enter into a positive covenant that no change will be made to such reservations without the prior approval of Randwick City Council.

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

19. The following monetary contribution is to be paid to Council in accordance with Clause 18.2 of the Randwick City Section 94A Development Contributions Plan, effective 2 July 2007.

- |   |             |
|---|-------------|
| a) for the provision or improvement of open space           | \$33,467.63 |
| b) for the provision or improvement of community facilities | \$14,797.82 |
| c) Administration fee                                       | \$425.00    |

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

**The following conditions are applied to ensure the protection of heritage and archaeological significance of the site:**

20. An archaeological assessment of the identified strip of land along Anzac Parade, is to be carried out including archaeological supervision in accordance with the processes set out in the AMP and the Archaeological Assessment Guidelines produced by the NSW Heritage Office. The assessment should advise on the likelihood and potential significance of relics on the site and recommend appropriate action in the context of the proposed development.

**Aboriginal Archaeology**

21. Should Aboriginal objects be found, the Department of Environment and Conservation (DEC) is to be informed (as required by the provisions of the 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.
22. 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 and of the possibility that more as yet undiscovered Aboriginal cultural material may exist there.
23. 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**

24. Prior to commencement of any subsurface disturbance (excavation), all those involved are to be made aware of the potential for historical archaeological relics to survive within the area. This is to be done through a site induction, which also notifies all involved of their obligations under the Heritage Act 1977 (NSW).
25. In the event that historical archaeological remains or deposits are exposed during the works, the excavation work shall cease immediately and an evaluation of their potential extent and significance should be undertaken and the Heritage Council of NSW notified under the requirements of the Heritage Act.

**The following conditions are applied to meet the requirements of the Heritage Council of NSW:**

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26. The development must be implemented in accordance with the General Terms of Approval issued by the Heritage Council of NSW as detailed in the letter from the Council dated 30 January 2008.

**The following conditions are applied to maintain reasonable levels of environmental amenity and public health safety.**

27. A Site Audit Statement (SAS) and Summary Site Audit Report (SSAR) have been issued for this site. An "Unexpected Finds Protocol" forms part of these documents and shall be complied with as part of this consent. These documents shall be included in all leases and sales contracts.
28. The builders, site workers and the Principal Certifying Authority for this development are to be made aware of this unexpected finds protocol and its requirements prior to any works commencing.
29. Details of and unexpected finds, including the details of any investigation procedures, remedial actions and validation undertaken shall be forwarded to the Council accordingly.
30. Any fill importation to the site is to be monitored and classified by the Site Auditor appointed for remediation of the site or a person with his qualifications. Only 'Virgin Excavated Natural Material' (VENM) is to be imported to the site, as defined within the NSW EPA 'Environmental Guidelines; Assessment, Classification and management of Liquid and Non-Liquid Wastes. 1999'.
31. Any new information which comes to light during construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.
32. 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 & Safety Act (2000) & Regulations (2001).

**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:**

33. 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 (LA90), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15 min and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

34. The report titled "Lot 13, Corner of Anzac Pde and Pines Ave Little Bay – Acoustic Assessment" report number TB916-01F04 (rev 5) Lot 13 DA Report, prepared by Renzo Tonin and Associates Pty Ltd dated 21st May 2005, and the recommendations contained within, form part of this consent.
35. 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.

36. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council prior to a 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.
37. The applicant is to engage the services of a suitably qualified environmental consultant (or similar) to respond to enquiries and complaints made by the community, the general public or Council in relation to Contamination, remediation, excavation and construction site management matters.

A specific contact number is to be made available for such enquiries and complaints (including an after hours emergency contact number). A complaints register is to be maintained to record all such enquiries, complaints and actions taken in response to these enquiries and complaints. This register shall be made available to council officers upon a reasonable request.

**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:**

38. 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.
39. An application for installation of the proposed grey water recycling system, in accordance with Section 68 of the Local Government Act 1993 and the Local Government (General) Regulation 2005 is to be submitted to and approved by Council prior to these works commencing. Details of compliance with relevant Department of Energy, Utilities and Sustainability (DEUS) and NSW Health guidelines are to be provided with the application.
40. An application for the operation of the proposed grey water system, in accordance with Section 68 of the Local Government Act 1993 and the Local Government (General) Regulation 2005 is to be submitted to and approved by Council in accordance with the relevant regulatory framework. Details of compliance with relevant Department of Energy, Utilities and Sustainability (DEUS) and NSW Health guidelines are to be provided with the application.

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

41. 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.



42. 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*.
43. **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.
44. **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.

45. 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.

46. 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".

47. 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.

48. **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.

49. 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.

50. 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.

51. Fire safety notices must be provided to fire-isolated stairways, passageways or ramps in accordance with clause 183 of the *Environmental Planning and Assessment Regulation 2000*, at all times.
52. 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:**

53. 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.
54. 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.

55. 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**.

56. 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**.
57. 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:**

58. 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.
59. 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.

60. 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.
61. 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 (except as detailed below) between 8.00am to 5.00pm on Saturdays.
- All building, demolition and associated site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.
- 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.
62. 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.
63. 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.
64. 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.
65. 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.
66. 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.

67. 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.

68. 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.

69. 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.

70. 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 water 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.

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.

71. 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. 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.

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

Temporary fences and 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 any part of the footpath, nature strip or any 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.

72. A 'B Class' overhead type hoarding is required is be provided to protect the public, located adjacent to the development, prior to the commencement of any works on the site which comprise: -

- any works or hoisting of materials over a public footway or adjoining premises, or
- any building or demolition works on buildings which are over 7.5m in height and located within 3.6 metres of the street alignment.

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

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

73. 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 access and facilities for people with disabilities:**

74. Access, facilities and car parking for people with disabilities must be provided to and within the building in accordance with the relevant provisions of the Building Code of Australia and AS1428.1, AS4299 and 2890.1 and relevant Council development control plans for the subject development, to the satisfaction of the Certifying Authority. Details of the proposed access, facilities and car parking for people with disabilities are to be included in the plans / specifications for the **construction certificate**.

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

75. The applicant shall:
- a) Construct a full width concrete commercial vehicular crossing and layback at kerb opposite the proposed vehicular entrance to the site.
- Note: Should the layback be located over an existing kerb inlet pit, the applicant will be required to:
- Convert the existing kerb inlet pit to a grated inlet pit in the new layback; and
  - Construct a new kerb inlet pit immediately adjacent to the new crossing to compensate for the lost inlet capacity.
- b) Remove any redundant concrete vehicular crossings and layback and to reinstate the area with concrete footpath, turf and kerb and gutter.

The works shall 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).

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

76. 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 proposed footpath levels along both the site frontages.
77. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate.

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

78. 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.
79. 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.

80. 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.
81. 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.
82. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.

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

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

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

83. Stormwater drainage plans have not been approved as part of this development consent. 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 "flushed 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.
84. All stormwater run-off naturally draining to Lot 13 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.
85. All stormwater leaving Lot 13 must be discharged to the new storage pond (located adjacent to Fairway 7 within the Coast Golf Course), via the underground drainage system in Pine Avenue. The site drainage system shall be connected directly into the underground street drainage system through a new or existing kerb inlet pit.
- Notes:
- a. All new kerb inlet pits shall be constructed in general accordance with Council's standard drawing SD7a.
  - b. 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.
86. Any Infiltration systems/Absorption Trenches must be designed in accordance with "Section 8.5 ABSORPTION TRENCHES" as stipulated in Randwick City Council's Private Stormwater Code.
87. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
88. 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.

89. A sediment/silt arrester pit must be provided: -

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

The sediment/silt arrester pit shall be constructed 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 (e.g. spring loaded j-bolts or similar).
- 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.**

90. Four covered car washing bays shall be provided for this development.

- a) The car washing bays must be drained to sewer to the requirements of Sydney Water and proof of compliance is to be submitted to the certifying authority, prior to a construction certificate being issued for the proposed development.
- b) The car washing bays must be located outside any required/approved stormwater detention system.
- c) The car washing bays 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 bays must be constructed with a minimum 20mm bund around the perimeter of the car washing bays (or equivalent)

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- e) A water tap shall be located adjacent to the car washing bays.
91. 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) Finished site contours at 0.2 metre intervals;
  - b) The location, diameter, gradient and material (i.e PVC, RC etc) of all stormwater pipes;
  - c) Details of any infiltration/absorption systems; and
  - d) Details of any pumping systems installed (including wet well volumes).
92. 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.
93. As the above site may encounter groundwater/seepage water within the depth of the basement excavation, the basement carpark is to be suitably tanked and waterproofed. A Structural Engineer/Geotechnical Engineer shall certify the tanking & waterproofing has been carried out to an acceptable standard, to the satisfaction of the certifying authority. 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 groundwater / seepage water to drain around the basement carpark (to ensure that the basement will not dam or slow the movement of the water through the development site).

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

94. The residential waste storage areas shall be sized to contain a total of 60 x 240 litre bins (37 garbage bins & 37 recycle bins) whilst providing satisfactory access to these bins.
95. The retail/commercial waste storage area shall be sized to contain a total of 8 x 660 litre bins whilst providing satisfactory access to these bins.
96. Prior to the issuing of a construction certificate, the applicant shall submit to Council for approval, details of the mechanical device proposed to be used for the transfer of full bins to the kerbside for collection.
97. Prior to the issuing of an occupation certificate, a waste caretaker shall be employed on an on-going basis to manage the waste storage and collection of the development site in accordance with the Waste Management Plan by J D MacDonald Waste Management Consultants dated July 2006.

98. Details of the proposed motorised trolley system shall be submitted to the Council for approval prior to the issuing of a construction certificate.
99. 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.
100. The waste storage areas shall be clearly signposted.
101. 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 satisfy the provisions of Council's environmental plans, policies and codes for subdivision works:**

102. The applicant shall create suitable right of carriageway, easements for services and internal stormwater lines, as required. The applicant shall be advised that the minimum easement width for any internal stormwater line is 0.9 metres.
103. All conditions of development consent must be satisfied and all public roads and reserves must be satisfactorily restored prior to endorsement of the subdivision plans.
104. The applicant shall provide Council with a survey plan of the property prior to endorsement of the subdivision plans.

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

105. Detailed landscape drawings and specifications which have been prepared in accordance with the landscaping performance criteria and controls for Precinct P2, as set out in the Prince Henry Site Development Control Plan dated 8 December 2004, shall be submitted to, and be approved by the certifying authority, prior to a construction certificate being issued. A copy of the approved plan shall be forwarded to Council if Council is not the certifier for the site.

The landscape drawings and specifications are to be prepared by a qualified Landscape Architect who is eligible for membership with the Australian Institute of Landscape Architects (AILA). The documentation is to include:

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

The plan shall clearly show the position, canopy spread (location of dripline), trunk diameter, height and names of all existing trees upon

the site and adjoining sites within 6 metres of the common property boundary which are likely to be affected by the development.

- b. A planting plan at a scale of 1:100 or 1:200 indicating the location of all proposed planting and existing trees to be retained. All plants are to be drawn at their mature size with a dense planting of shrubs, accent plants and ground covers within all garden beds so that a continuous planted cover is achieved. Plant spacings are to be clearly indicated for all accent and groundcovers.
- c. A planting schedule listing all plants by botanic & common names, plant numbers, plant spacings for groundcovers and accent planting, pot sizes, the estimated size of the plant at maturity (height & spread) and proposed staking methods when applicable.

Note: All species proposed for the landscaped areas shall be selected from the list of suitable native species provided in Appendix A of the Prince Henry Site Development Control Plan, dated 8 December 2004.

- d. Additional notation showing soil and mulch details, irrigation details, edging, paving, fencing details, surface finishes, retaining wall details, and any other landscape elements in sufficient detail to fully describe the proposed landscape works.
  - e. Position of existing and proposed site services including water, gas, electricity, sewer, stormwater, etc.
  - f. Sectional elevations through the site showing the existing and proposed groundlines, building elevations, and mature height of proposed planting.
  - g. All planter boxes and garden beds constructed on slab must have a minimum *soil depth* of 600mm and all lawn areas must have a minimum *soil depth* of 300mm. Planter box details shall be submitted with the detailed landscape plans.
  - h. The plan shall respect the prevailing coastal influences and the coast's special design considerations and requirements, and shall be designed accordingly. Generally, species selection shall be restricted to local indigenous coastal species, that require minimal watering once established or species with water needs that match rainfall and drainage conditions.
  - i. Porous paving shall be used in all pathways. Details are to be provided with the construction certificate application.
  - j. Location of easements within the site and upon adjacent sites (if any).
106. 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.
107. To ensure satisfactory maintenance of the landscaped areas, an automatic irrigation system shall be installed throughout all the landscaped areas. Such system shall provide full coverage to all the landscaped areas with no overspray onto driveways and pathways.

Details of the automatic irrigation system shall be shown on the detailed

landscape plans and specifications. The system shall comply with all Sydney Water requirements, and relevant Australian Standards.

108. Any substation required shall be screened from view. The proposed location and elevation shall be shown on all detailed landscape drawings and specifications.
109. Any detention tanks and below ground 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.

#### 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                            |
| h) | Part E1 | - | Fire fighting equipment                          |
| i) | Part E2 | - | Smoke Hazard Management                          |
| j) | Part E3 | - | Lift Installations                               |
| k) | Part E4 | - | Emergency lighting, exit signs & warning systems |
| l) | Part F1 | - | Damp and weatherproofing                         |
| m) | Part F4 | - | Light and ventilation                            |
| n) | 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.

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

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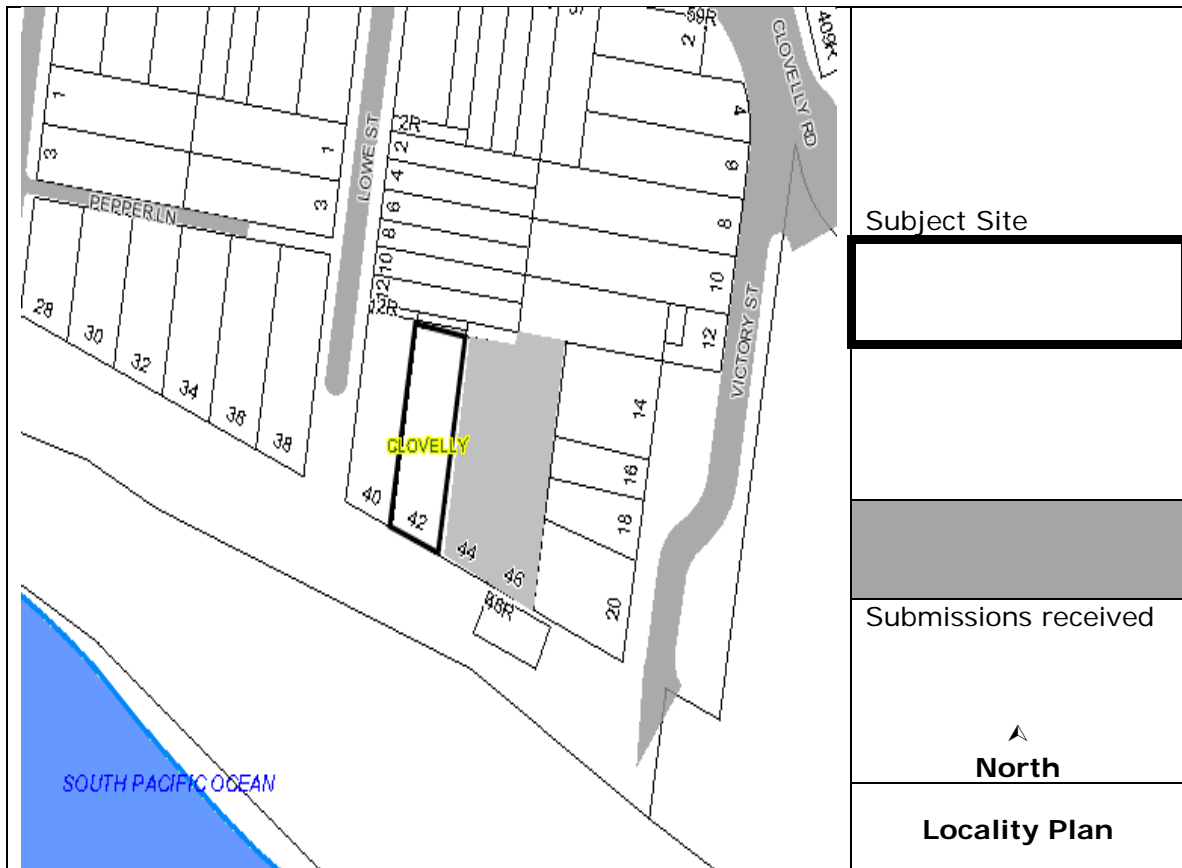


# Development Application Report No. D15/08



**Subject:** 42 Cliffbrook Parade, Clovelly  
**Folder No:** DA/347/2007/A  
**Author:** Perry Head, Environmental Planning Officer  
**Proposal:** Section 96 modification of Development Consent No. 347/2007 by amending Condition No. 7  
**Ward:** North Ward  
**Applicant:** ABC Planning  
**Owner:** Proprietors of SP1669

**Summary Recommendation:** Approval



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## 1. Executive Summary

The application is for a Section 96(2) Modification of Development Consent 347/07 seeking to amend a condition of consent.

The application is referred to the Planning Committee for determination as the original application was approved at the Health Building and Planning Committee meeting on the 11 September 2007.

The main issue is potential additional impact upon privacy of the owners of the adjoining properties.

The application is recommended for approval.

## 2. The Proposal

The original approval was granted subject to conditions including condition 7 which stated;

*"The south rear boundary setback of the southern terraces to levels three (3) and four (4) shall be increased by 1m and result in the terraces to these levels not projecting more than 2m from the southern face of the existing building. Details of compliance are to be noted in the construction certificate plans or specifications".*

The application seeks to vary condition 7 of the original development consent to read;

*"The south rear boundary setback of the southern terrace to level four (4) only shall be increased by 1m and result in the terrace to this level not projecting more than 2m from the southern face of the existing building. Details of compliance are to be noted in the construction certificate plans or specifications."*

## 3. The Subject Site and Surrounding Area

The subject site is located on the northern side of Cliffbrook Parade which is directly opposite Gordons Bay and the site is accessed from a right of way which extends from Lowe Street to the west of the site. The southern boundary of the site adjoins the coastal walkway. The site is presently occupied by a three storey multi unit housing development which has a roof terrace and balconies within the southern elevation. The site has an area of 584m<sup>2</sup>.

## 4. Site History

Development consent was originally granted at the Health Building and Planning Committee meeting of the 11<sup>th</sup> September 2007 for alterations and additions to the existing residential flat building including new windows on the eastern and western side, a new deck to the southern side, replacement of existing decks, new balustrade to roof terrace, reconfiguration of units 7 & 8 and alterations to units 3 & 4.

## 5. Section 96 Assessment

Under the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979, as amended, Council may only agree to a modification of an existing Development Consent if the development is substantially the same development. The proposed modifications to the approved plans seek to alter a condition of consent only and do not alter the overall nature and scale of the approved development which will remain substantially the same development.

**6. Community Consultation**

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

**Owner of 1/46 Cliffbrook Parade Clovelly**

Issue	Comment
There are concerns in relation to the additional height of the new upper level.	The additional level was considered with the assessment of the original application and does not relate to this application which seeks to modify a condition of consent only.
There are concerns that the garbage store which opens onto the right of way would be potentially dangerous.	Approval was granted to this garbage store under the original application subject to the doors being sliding and not opening onto the right of way.
Increased floor area means that traffic congestion will be increased.	Parking was considered during the assessment of the original application and parking demand is not altered by this proposed modification.

**Owner of 5/44 Cliffbrook Parade Clovelly**

Issue	Comment
Increasing the depth of the balconies and removing privacy screens will result in loss of privacy and will contravene the agreement previously reached.	See detailed discussion of privacy issues below in Section 8.
The change in the garbage doors does not comply with conditions of consent that these doors are to be sliding.	The application does not seek to alter the garbage store doors as approved by Condition 11.

**Credence Planning on behalf of the owners of 44 Cliffbrook Parade Clovelly**

Issue	Comment
The proposed modification erodes the integrity of the decision of Council as the objection was withdrawn on the basis that the original condition was imposed.	A Section 96 application allows for the reconsideration or amendment to conditions of consent.
There are concerns that the increased balcony depth will result in additional overlooking into the adjoining properties and the statement that there will not be any impacts in relation to overshadowing, privacy and loss of views has not been substantiated.	See detailed discussion in relation to amenity and privacy issues in Section 8.
The Section 96 plans do not reflect the changes required by other conditions of consent.	The plans lodged with this application are for the purposes of consideration of the Section 96 application, they do not represent the final plans for construction which must reflect all conditions of consent.

**Owner of 4/44 Cliffbrook Parade Clovelly**

Issue	Comment
There are ongoing concerns with respect to privacy loss as a result of the new development.	See detailed assessment of privacy impacts in Section 8.
The existing approval noted the need for	Noted, this application does not seek to

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Issue	Comment
planning of endemic species and deep soil planting.	vary the approved landscaping scheme.
The existing approval recognises the issue of encroachment over the right of way by the garbage storage area.	Noted, this application does not modify the approved garbage store and condition of consent which required the store to have sliding doors so as to not encroach upon the right of way.
There is confusion as to what consent for this property is operative.	A previous development application, DA/455/2006, which detailed alterations and additions to units 7 and 8 only was withdrawn by the applicant at the request of Council to ensure that there would not be two operative consents relating to this property which would have resulted in cumulative impacts of each development upon the adjoining properties. Therefore at present there is only the one subject development application relating to this property.
There are concerns that this application is an attempt to 'muddy the waters' in relation to what is actually approved.	This application seeks consent to modify the approved development consent and by definition represents substantially the same development.
It is unclear as to why Council would change decisions previously determined during the assessment of the original application.	A Section 96 application is an opportunity to consider modifications to the original consent, the lodgement of the application alone does not guarantee a decision.

**7. Relevant Environmental Planning Instruments**

The site is zoned 2A (Residential A Zone) under the Randwick Local Environmental Plan 1998 and as such the proposal for multi unit housing is a prohibited use in the zone. However, under Section 41 of the Environmental Planning and Assessment Regulation 2000, the non conforming use may be enlarged, expanded, intensified, altered, extended or rebuilt. Therefore, notwithstanding that the proposal is prohibited with the 2A zone it may be approved by development consent under the existing use rights provisions of the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation 2000.

**8. Environmental Assessment**

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

**8.1 Privacy**

The proposal was assessed in detail in relation to compliance with the relevant planning controls during consideration of the original application. The salient point of this application is the extent of impact upon the adjoining properties in relation to any additional loss of privacy.

The original development application report noted that the proposed enlarged terraces would result in a potential for increased overlooking into the adjoining properties and as a result condition 7 was imposed to restrict the depth of the

terraces to the same depth as the existing terraces to ensure that overlooking potential would not be increased beyond the existing site conditions.

All of the properties within Cliffbrook Parade are orientated to the south to take advantage of the extensive coastal views across Gordons Bay and towards Coogee and Wedding Cake Island. The recently erected multi unit housing developments to the east of the subject property have large terraces off the living areas of the dwellings at each level of the buildings.

There is already overlooking of each property from the terraces and balconies to the southern elevation of the buildings. To some extent the degree of privacy loss arises not because of the extent of the terraces but because there are no privacy screens or planter boxes to the sides of the terraces or balconies to restrict overlooking into the adjoining properties.

An inspection of the adjoining property at 44 Cliffbrook Crescent indicates that from the terraces to that building it is already possible to look directly upon terraces at the adjoining properties at 46 and 42 Cliffbrook Parade , and likewise it is possible to look directly upon those terraces from the terraces and balconies to the adjoining buildings.

Whether the terraces are 2m or 3m in depth is not the critical concern, the main issue is what measures are provided to the terraces to mitigate overlooking upon the terraces to the adjoining building.

A condition of consent (No.8) originally required that privacy screens and planter boxes extend the full length of the eastern elevation of each terrace to the rear of the building with details being provided to and approved by Council's Director of Planning prior to a construction certificate being issued.

An amendment to condition 7 to increase the approved depth of the terrace at level 3 will still require the provision of a privacy screen and planting to the eastern side of the terrace and these which will prevent the direct overlooking of the adjoining terraces and maintain a reasonable degree of amenity and privacy to the occupants of that building.

## **9. RELATIONSHIP TO CITY PLAN**

The relationship with the City Plan is as follows:

Outcome 4: Excellence in urban design and development.  
Direction 4a: Improved design and sustainability across all development.

## **10. Conclusion**

Having regard to all relevant matters for consideration, the proposed modification application will not result in any significant adverse impacts upon either the amenity of the adjoining premises or the character of the locality.

## **Recommendation**

That Council as the consent authority, grant its consent under Section 96 of the Environmental Planning and Assessment Act 1979 as amended to modify Development Consent No DA/347/07 for permission to carryout alterations and additions to the existing multi unit housing development in the following manner:

**1. Amend Condition No. 1 to read:**

The development must be implemented substantially in accordance with the plans numbered DA01 dated 23 November 2006 received by Council on the 10 May 2007, the plans numbered DA/02, DA/03, DA/04, DA/05, DA/06, DA/07, DA/08, DA/09 and DA/10 drawn by Form Architecture, dated 23 November 2006 and received by Council on the 23 August 2007, the application form and on any supporting information received with the application, as amended by the **Section 96 plans numbered DA/04a, dated 23 November 2006, received by Council on the 26 November 2007, only in so far as they relate to the modifications highlighted on the Section 96 plans and detailed in the Section 96 application.**

**2. Amend condition 7 to read:**

"The south rear boundary setback of the southern terrace to level four (4) only shall be increased by 1m and result in the terrace to this level not projecting more than 2m from the southern face of the existing building. Details of compliance are to be noted in the construction certificate plans or specifications. "

**Attachment/s:**

Nil

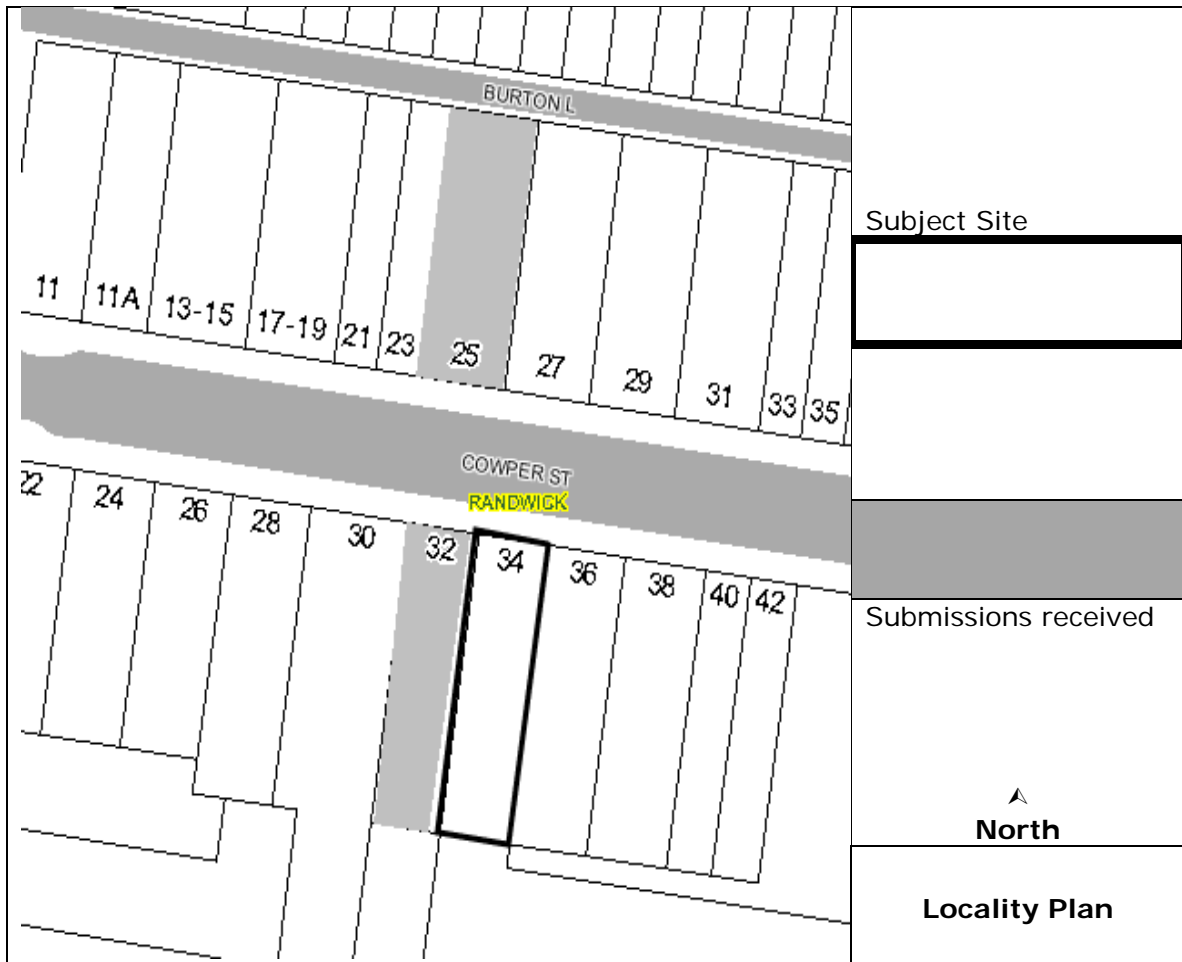
**Item D15/08**



# Development Application Report No. D16/08



**Subject:** 34 Cowper Street, Randwick  
**Folder No:** DA/829/2007  
**Author:** Perry Head, Environmental Planning Officer  
**Proposal:** New garages with trafficable roof terrace to existing multi unit housing development  
**Ward:** North Ward  
**Applicant:** J Spiteri  
**Owner:** Rebwell Pty Limited  
**Summary Recommendation:** Refusal



Item D16/08

**1. Executive Summary**

The application is referred to the Planning Committee for determination at the request of Councillors Daley, Andrews and Tracey.

The application details the erection of garages with trafficable roof to the front of the property.

The main issue is the impact of the proposed development upon the appearance of the building and the streetscape, and the significant loss of landscaped area to the front of the subject site.

The application is recommended for refusal.

**2. The Proposal**

The application details the erection of a garage structure to the front of the building providing individual parking for three vehicles with a trafficable roof terrace and new entry path to the side boundary, the garage structure will occupy most of the width of the front of the allotment, sited up to the front boundary, 50mm from the western side boundary and 1500mm from the eastern side boundary and will have an area of 57m<sup>2</sup>. One street tree will be required to be removed to accommodate the garage structure.

**3. The Subject Site and Surrounding Area**

The subject site is located on the southern side of Cowper Street between Prince and Church Streets and is presently occupied by an existing two storey multi unit housing development containing four dwellings. The site has a frontage width of 10.67m, a side boundary depth of 41.15m and has an overall site area of 439m<sup>2</sup>. The locality is residential in nature and contains a mixture of semi detached and free standing dwellings and multi unit housing development.

**4. Site History**

The building is currently undergoing external and internal renovation, including the rendering and painting of the building which was approved as Complying Development.

**5. Community Consultation**

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

**Owner of 32 Cowper Street Randwick**

Issue	Comment
No objections generally to the proposed new garages providing they are used to park vehicles and not for storage.	A condition of consent could be imposed to require that the garages be used primarily for vehicle accommodation.
There are concerns that construction works may block access to their garage and damage their house during excavation.	Conditions of consent could be imposed to ensure that access to the adjoining properties are maintained during construction works and that the adjoining properties be properly retained during and after construction works and also that a dilapidation report be prepared for both of the adjoining properties prior to release of Construction Certificate.

There are concerns that access to the space between the two buildings is maintained for all services.	The proposed works will not impede access between the two properties.
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**Owner of 25 Cowper Street Randwick**

Issue	Comment
The proposed garage will necessitate the construction of three driveways which will cause interference to the free flow of traffic and remove a parking space from the street.	The garage will serve only three dwellings and is capable of accommodating three vehicles only and the number of vehicle movements would not be so significant to impede traffic flow within the street. With respect to the loss of a parking space in the street as a result of the installation of the driveways, there would be a net improvement in the parking demand for on street car spaces.

**6. Technical Officers Comments**

The application has been referred to the relevant technical officers and conditions have been provided for inclusion with any consent that may be granted.

**7. Relevant Environmental Planning Instruments**

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

**8. Environmental Assessment**

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

**Randwick Local Environmental Plan 1998**

The following clauses of LEP 1998 are relevant to the proposed development:

**a) Landscaped Area**

Clause 31 of LEP 1998 states that a minimum of 50% of the site area must be provided as landscaped area for multi-unit housing. Landscaped areas over podiums or excavated basement areas must not exceed 50% of that requirement. The proposal to install the garages within the front of the building will result in the remaining landscaping being only 45% of the site which does not comply and a SEPP 1 Objection has been lodged arguing that strict compliance in this instance is not necessary and is discussed below.

**State Environmental Planning Policy No.1 – Development Standards**

The proposal seeks to vary the development standard contained with Randwick Local Environmental Plan 1998, Clause 31 with respect to minimum landscaping provided to buildings other than dwelling houses and in the objection the applicant has argued that strict compliance is unreasonable and unnecessary for the following reasons.

- a) The shortfall is minor and will not contribute to any significant negative impacts on the amenity of the occupants of the building.
- b) The existing private open space at the rear of the site remains unaltered and provides a sizeable outdoor area for recreation purposes.
- c) The new terrace area above the garages will provide additional outdoor open space for occupants of the subject building.

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- d) The proposal will provide convenient and safe car parking spaces for the occupants of the building.
- e) The proposed garages have been designed to integrate with the existing building and adjoining garages structures and will not dominate or detract from the visual appearance of the existing building and the character of the local streetscape.

Clause 8 of SEPP No. 1 sets out the matters, which shall be considered in deciding whether concurrence should be granted, stating that:

"The matters that shall be taken into consideration in deciding whether concurrence should be granted are –

- a. Whether non-compliance with the development application raises any matter of significance for State or regional environmental planning; and
- b. the public benefit of maintaining the planning controls adopted by the environmental planning instrument."

Whilst the numerical variation is relatively small in this circumstance, allowing the variation would be inconsistent with the objectives for this development standard within Clause 31, Landscaping of the RLEP 1998, particularly in relation to providing for landscaping to soften the visual impact of development.

Justice Lloyd in *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46 in assessing a SEPP 1 objection asked the following questions:

*First, is the planning control in question a development standard?*

Yes, Clause 31 is contained within an LEP and is expressed as a development standard not a prohibition.

*Second, what is the underlying object or purpose of the standard?*

The purpose of the standard 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.

*Third, is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?*

Varying the development standard is not consistent with the aims of SEPP 1 and will hinder the attainment of the objectives of the LEP, and sections 5(a) (i) and (ii) of the EP&A Act.

*Fourth, is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

In this case, it is considered that compliance with the development standard is reasonable and necessary in that there is a significant benefit to the occupants of the building provided by the soft landscaping within the front of the building that is not outweighed by the removal of all of this soft landscaping and replacement with hard surfaces to provide for garaging and concrete roof terrace. Further the loss of landscaping to the front of the site does not assist in the reduction of stormwater runoff and will adversely impact on the aesthetic qualities of the streetscape.

*Fifth, is the objection well founded? In relation to the fourth question, it seems to me that one must also look to see whether a development which complies with the development standard is unreasonable or unnecessary, as noted by Cripps J in the Hooker Corporation case.*

Pursuant to Clause 7 of SEPP No. 1, the objection is not well founded and the granting of consent is not consistent with the aims of the Policy. It is recommended that the SEPP 1 objection not be supported.

**Development Control Plan – Multi-Unit Housing**

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.

Performance Requirement	Preferred Solution	Compliance  (Whether proposal meets Performance Requirements or Preferred Solutions.)
<b>Building Setbacks</b>		
P1 Front boundary setbacks The front setback consistent with streetscape /adjoining dwelling.		The proposed new garage to the front of the property will not comply with the performance requirements of the DCP in that the garage structure will be visually obtrusive and will detract from both the appearance of the building and the local streetscape.
		It is noted that there are examples of other similarly sited structures located near the subject premises however these were erected prior to the current planning controls being adopted which place more weight on the visual qualities of the streetscape.

<b>Landscaping and Private Open Space</b>		
P1 Landscaped Areas Areas are sufficient size allow recreational activities and substantial vegetation.	S1 Minimum for landscaped area 2 metres.	The majority of the soft landscaping at the front of the building will be replaced with hard surfaces, significantly impacting on the aesthetic qualities of the site and its contribution to streetscape character.

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<b>Driveways and Manoeuvring Areas</b>		
P1 Areas of driveways and manoeuvring are minimised.		Access to the garages is available directly from the front of the property.
P2 Vehicles enter/ leave in a forward direction.	S2 Vehicles enter with a single turn and leave in no more than 2 turns.	Does not comply, however because of the position of the proposed garage up to the front boundary it would be impossible to provide off street parking in another form.
P4 Space between boundaries and driveways, access ways and parking spaces enables landscaping and planting.	S4 Driveways have a minimum width of 3 metres and is at least 1 metre from any side or rear fence.	This is not possible because of the position of the garage, a condition of consent could be imposed if the application is approved to require additional planting being installed to the roof terrace.
P6 Driveway gradients safe.	S6 Driveway gradients do not exceed 1 in 6 or 1 in 5 for ramps over 20m.	Complies.

**9 Relationship to City Plan**

The relationship with the City Plan is as follows:

- Outcome 4:** Excellence in urban design and development.
- Direction 4a:** Improved design and sustainability across all development.

The proposal will not contribute to the above outcome as it fails to meet the objectives and performance requirements of the DCP-Multi Unit Housing and will detrimentally impact on the streetscape character of Cowper Street.

**10 Conclusion**

The proposal does not comply with the relevant assessment criteria and the objectives and performance requirements of the DCP – Multi Unit Housing and will result in an adverse impact upon the appearance of the building and the local streetscape character.

**Recommendation**

That Council as the consent authority refuse development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No.829/07 for permission to erect a new garage structure at 34 Cowper Street Randwick for the following reasons;

1. The proposal does not comply with Clause 31 of RLEP 1998 and will result in a significant loss of landscaping to the front of the site that will detract from the aesthetic qualities of the subject site and its contribution to streetscape character.
2. The proposed garage does not comply with the objectives and performance

requirements of the Development Control Plan for Multi Unit Housing in that the garage structure will be visually obtrusive and will detract from both the appearance of the building and the local streetscape, and the removal of the soft landscaping area within the front of the site will not enhance and contribute to the character of the locality.

**Attachment/s:**

Nil

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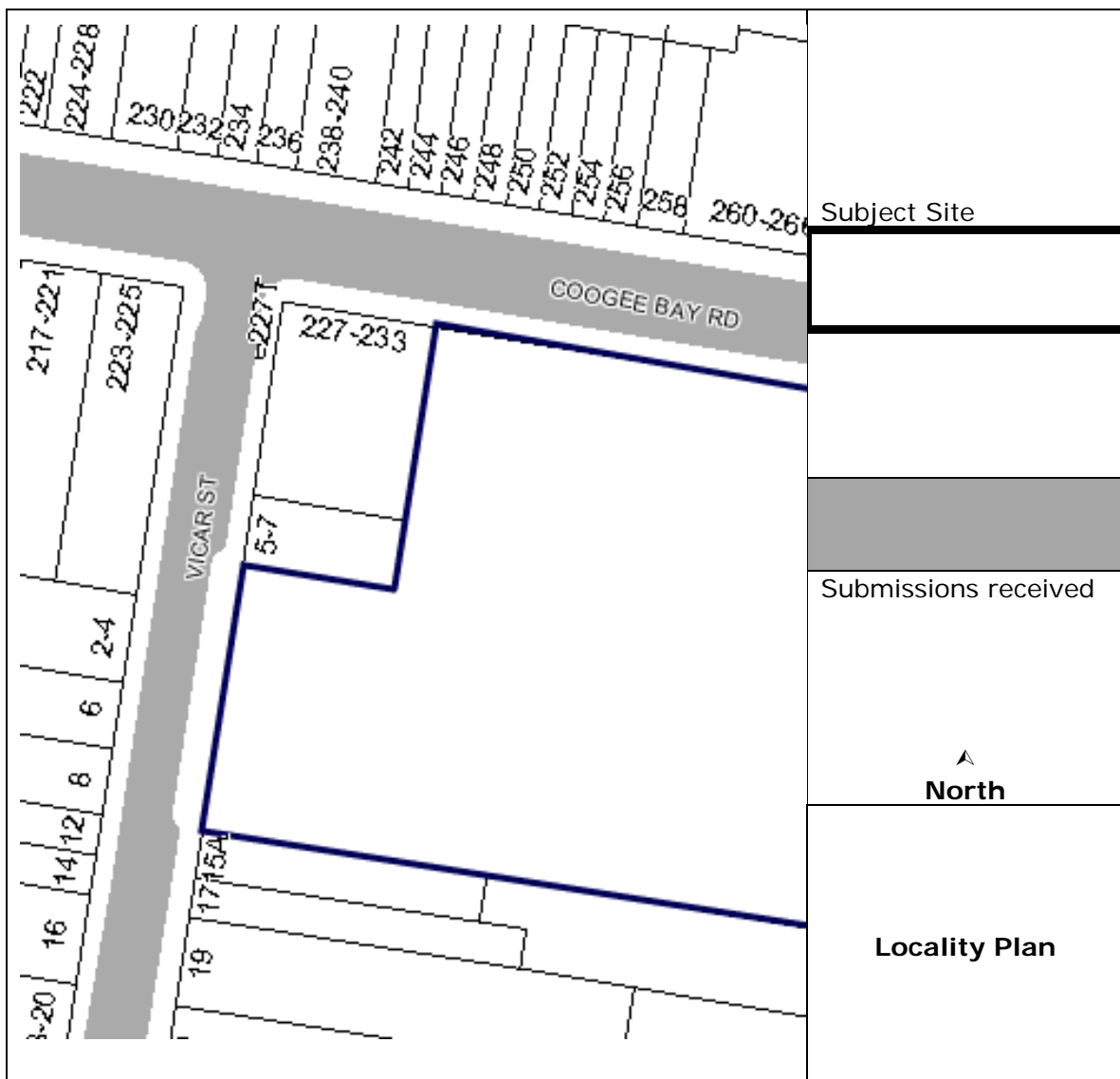




# Development Application Report No. D17/08



**Subject:** 212 Arden Street, Coogee  
**Folder No:** DA/423/2005/E  
**Author:** Frank Ko, Environmental Planning Officer  
**Proposal:** Section 96(2) – Modification development by replacement of three existing fixed windows on Coogee Bay Road frontage of the Coogee Bay Hotel with new bi-fold windows.  
**Ward:** East Ward  
**Applicant:** Mr E Armstrong  
**Owner:** Simmattown Pty Ltd  
**Summary Recommendation:** Approval



Item D17/08

## 1. Executive Summary

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

The original Development Application for alterations and refurbishment to the existing gaming room, sports bar and bottle shop to the Coogee Bay Hotel (the Hotel), including new openings was approved at the Ordinary Council meeting on 13 December 2005.

The subject application under the provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 (as amended) proposes the replacement of three existing fixed windows to the Sports Bar on the ground floor Coogee Bay Road façade with new bi-fold windows to match the operable windows previously approved for the Beach Bar under DA No. 36/2004.

The proposal was notified to the surrounding properties for 14 days and a total of four (4) submissions were received during this period. The main issues raised in the submissions were regarding patrons congregating on the footpath outside the Hotel near the windows and inconsistency with the objectives of General Business Zone.

The proposal is consistent with the relevant objectives of the zone and the approved Master plan (deemed DCP) for the site will not impact on the integrity of original building fabric or on the streetscape contribution of the building.

Whilst it is acknowledged that the proposed modifications may have the potential to affect the environmental amenity of the locality, the assessment in this report has demonstrated that the impacts would be acceptable provided all acoustic attenuation measures as recommended in the applicant's acoustic report are fully implemented and incorporated in the Plan of Management (i.e. restrict the hours the new windows are allow to be opened and limiting the maximum capacity of the patrons within the associated bar area). As such, appropriate conditions have been provided for inclusion with any consent granted.

The recommendation is for approval subject to conditions.

## 2. The Proposed Modifications

The application seeks consent to replace three existing fixed windows to the Sports Bar on the ground floor Coogee Bay Road façade with three new bi-fold windows to match the operable windows previously approved for Beach Bar under Development Application No. 36/2004. The sill height of the two existing window openings is to be increased from 700mm to 1,100mm, measured from internal floor level, to allow for a dry bar behind the windows.

## 3. The Subject Site And Surrounding Area:

The subject site is located on the south-western corner of the intersection of Arden Street and Coogee Bay Road. The rear south-western section of the subject site also has frontage to Vicar Street. The subject site has an area of 7,241sqm.

The land is currently occupied by a public hotel, The Coogee Bay Hotel, along the Coogee Bay Road and Arden Street frontage and the Coogee Bay Boutique Hotel along the Vicar Street frontage.

The surrounding area comprises predominantly retail/commercial uses with the subject site located within the Coogee Bay Commercial Centre. To the north on the opposite side of Coogee Bay Road is an existing shopping strip comprising predominantly two-storey shops with continuous awning. Immediately to the east is a three storey ground-floor retail and upper floor residential building adjacent to Vicar Street and the existing Coogee Bay Road shopping strip beyond. To the south are two four-storey residential flat buildings one with frontage to Arden Street and the other to Vicar Street.

#### **4. Site History**

##### **4.1 Application History**

The original Development Application (DA/423/2005) for alterations and refurbishment to the existing gaming room, sports bar and bottle shop to the Coogee Bay Hotel, including new openings was approved at the Ordinary Council meeting on 13 December 2005.

A Section 96 'A' Application for internal changes, addition of a smoking room and minor external changes of the Hotel including the replacement of a current door opening with a window and a change of entrance to the sports bar was approved under delegated authority on 25 August 2006.

A Section 96 'B' Application for the deletion of Condition Nos. 62 and 69 relating to overhead cabling along Coogee Bay Road and the retention of cornices in the sportsman bar was approved under delegated authority on 12 October 2006.

A Section 96 'C' Application for the modification of Condition No. 72 requiring the Department of Health to provide a statement verifying the smoking room meets current smoking legislation was approved under delegated authority on 1 December 2006.

A Section 96 'D' Application for the reconfiguration of the internal layout of the gaming room to allow for an enlargement of the smoking area and relocation of the toilets and bar was approved under delegated authority on 11 May 2007.

##### **4.2 History Of Site Usage**

The site has been used as a Hotel since 1875 and was previously used as a private residence and private school previously. The current building was erected in 1911 and the North-Eastern component constructed in 1921. Both buildings are currently used as bar facilities and are the subject of this current application.

Several applications have been submitted over the past eight decades relating to extensive alterations and additions including works to the beer garden, nightclub and sportsman's bar. In 1994 approval was issued to demolish the existing drive through liquor shop and two houses and erect a new drive through bottle shop and a new three level car park and three level hotel (above Vicar St). In 1996 this consent for the boutique hotel was extended including an additional level, and altering existing hotel accommodation above the north east wing, refurbishing Selina's nightclub and including a convention centre to the facilities of the site. In 2000, development consent 564/2000 was issued for partial demolition of Selina's nightclub and Garden Bar and construction of Arden lounge and bar which is known as stage 1 of the refurbishment of the site and has already been completed.

The Master plan (deemed DCP) was adopted by Council at its Ordinary meeting of the 24 February 2004 which provides development guidelines pertaining to

the refurbishment of the Coogee Bay Hotel. The proposed modifications are considered to be consistent with the deemed DCP.

A subsequent Development Application (DA/36/2004) for staged alterations and additions to the Hotel was approved on 14 December 2004. One component of this approval was for the reconfiguration of the ground floor bars addressing Coogee Bay Road namely the Sports Bar and the gaming lounge.

Development Application No. 533/2006 for the internal refurbishment of the ground floor Sports Bar/Pub TAB within the Hotel was approved at Ordinary Council meeting on 26 September 2006.

**5. COMMUNITY CONSULTATION:**

The proposal has been notified, advertised and referred to Precinct Committee in accordance with the DCP- Public notification. The following submissions were received:

**5.1 Objections**

**Mark England, Chair of Coogee Precinct Committee**

Issue	Comments
<p>The proposal will provide a major extension of the impact of the hotel and its patrons on the adjoining footpath and those who use it. There is a distinct smell of stale beer as one walks past the open doors to the Sports Bar. If this application is approved, this will be another disincentive for residents to shop and conduct their business locally and a disincentive for residents and visitors alike to enjoy the small local eating cafes and eating establishments in the area.</p>	<p>It is acknowledged that the proposed modifications may have the potential to affect the environmental amenity of the locality (i.e. noise). However, it is considered that the impacts would be reasonable provided the recommended noise attenuation measures are fully implemented and incorporated in the Plan of Management (i.e. restrict the hours the new windows are allow to be opened and limiting the maximum capacity of the patrons within the associated bar area).</p>

**Antoinette Starkiewicz, resident of Unit 1/140 Beach Street, Coogee**

Issue	Comments
<p>The subject application will extend the impact of the hotel and its patrons on the adjoining footpath and pedestrians who use the footpath. Apart from the smell and the noise, open windows along this strip will no doubt result in people congregating on the footpath outside the hotel to smoke and talk with those drinking inside. If this DA is approved, this will be another disincentive for residents to shop and conduct their business locally and a disincentive for residents and visitors alike to enjoy the small local eating cafes and eating establishments in the area.</p>	<p>Given the subject site is located within the designated Alcohol Free Zones, it would be illegal for patrons to consume alcohols on the footpath (i.e. lean over from the footpath and drink from the dry bars behind the new windows).</p> <p>There are currently no rules prohibiting people smoking or talking on the footpath. As such, it would be difficult for Council to control such activities. However, by restricting the hours the new windows are allowed to be opened will help to minimise the noise spill from the Hotel and also reduces the opportunity for patrons congregating on the footpath and talking to patrons inside the Hotel.</p>

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**Carolyn Murray, resident of Unit 5/169 Arden Street, Coogee**

Issue	Comments
<p>The subject application provides a major extension of the impact of the hotel and its patrols on the adjoining footpath and surrounds and to the pedestrians who use it. the footpath. Apart from the smell and the noise, open windows along this strip will no doubt result in people congregating on the footpath outside the hotel to smoke and talk with those drinking inside. If this DA is approved, this will be another disincentive for residents to shop and conduct their business locally and a disincentive for residents and visitors alike to enjoy the small local eating cafes and eating establishments in the area.</p>	<p>Refer to comments above.</p>

**Marie McMahon, resident of Unit 7/108 Brook Street, Coogee**

Issue	Comments
<p><i>Council should consider if this application fails to address or meet objectives (b)(vi) and (c) of General Business 3A zone under Randwick Local Environmental Plan 1998.</i></p>	<p>The proposal involves minor refurbishment works that will improve the amenity of the Sports bar within the Hotel and will maintain the viability of the Hotel and enhance the Coogee Business Centre. The proposal is therefore considered to be consistent with the relevant objectives of the zone.</p>

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**6. TECHNICAL OFFICERS COMMENTS**

The application has been referred to the relevant technical officers and the following comments have been provided: -

**6.1 Heritage Planner**

The proposal has been considered by Council's Heritage Planner and advice has been provided that the proposed modifications will not impact on the integrity of original building fabric or on the streetscape or townscape contribution of the building.

**6.2 Health, Building and Regulatory Services**

The application has been referred to Council's Health, Building and Regulatory Services for comment, conditions have been provided for inclusion with any consent granted.

**7. MASTER PLANNING REQUIREMENTS**

The site has a total area of 7,241sqm and as such pursuant to Clause 40A of RLEP 1998 a Master plan is required for the site to establish practices and procedures for the redevelopment of the site by introducing appropriate provisions and a framework for the appropriate staging and assessment of resultant development applications.

A Master Plan was adopted, subject to variations, on the 24 February 2004. 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.

The details of compliance with the relevant requirements of the Deemed DCP are provided in Section 8 of this report.

## 8. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

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

### (a) Randwick Local Environmental Plan 1998 (RLEP)

The site is zoned 3A - General Business and is listed as a heritage item under Randwick Local Environmental Plan 1998. The following Clauses of the RLEP are relevant to the proposal: -

#### Clause 13 – Zone No. 3A (General Business Zone)

The objectives of Zone No. 3A are:

- a. *to maintain the viability of existing business centres, and*
- b. *to facilitate development of land, in places identified by the Council as suitable to be used as business centres, for commercial, retail, residential and community purposes:*
  - i. *by introducing appropriate floor space ratio controls, and*
  - ii. *by encouraging economically viable retail cores which are centrally located and in close proximity to public transport, and*
  - iii. *by enhancing employment opportunities and servicing the needs of the local and regional community, and*
  - iv. *by encouraging and facilitating the use of public transport, and*
  - v. *by providing and enhancing pedestrian and public open space areas for shoppers and workers, and*
  - vi. *by maintaining and improving the environmental and aesthetic qualities of the City of Randwick,*
- c. *to minimise the impact of development on adjoining and nearby residential zones, and*
- d. *to enable a mix of housing types to encourage housing affordability.*

#### Comment:

The proposal involves minor refurbishment works that will improve the amenity of the Sports bar within the Hotel. The proposal will maintain the viability of the Hotel and enhance the Coogee Business Centre. The proposal is therefore considered to be consistent with the relevant objectives of the zone.

#### Clause 40A – Master Plan

As noted previously, a Deemed DCP was adopted by Council for the redevelopment of the Coogee Bay Hotel. The proposed modifications to the approved development are considered to remain substantially within the scope of the Deemed DCP as adopted, which provides refurbishment of the subject premises. The subject modifications remain consistent with the land use of the site and amenity impacts to neighbouring properties will be minimised through

performance requirement measures implemented through a Plan of Management and relevant acoustic attenuation measures.

### **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. As noted in Section 6.1 above, the proposal has been referred to Council's Heritage Planner for assessment and was considered that the proposed modifications will not impact on the integrity of original building fabric or on the streetscape or townscape contribution of the building.

## **9. SECTION 96 AMENDMENT**

### **9.1 Substantially the same**

The proposed modifications to the original development are considered to represent substantially the same development in that the plans clearly indicate the retention of the 'essential' form, character, design, height, footprint and use of the existing building.

### **9.2 Consideration of submissions**

The issues raised in the submissions have been addressed in Section 5.1 of this report.

## **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 Heritage Impact**

The subject site is part of the Coogee Bay Hotel site, listed as a heritage item under Randwick LEP 1998. The Randwick Heritage Study Inventory Sheet (SHIS) for the property notes that the building was used as a private school from 1863, before a second storey was added to convert it to a hotel, with many alterations and additions being made over the years. A Conservation Study for the Coogee Bay Hotel was prepared by Orwell and Peter Phillips Architects in 1989, noting that the principal significance of the Hotel arises from its continuous operation as a beachside hotel on its present site since 1875. Investigation of documentary and physical evidence indicates that comparatively little historic fabric has survived. The evolutionary plans provided indicate that the central section of the building at ground floor level, well set back from Arden Street and Coogee Bay Road, may have been constructed in the 1850. Additions to the south of this section were constructed in the 1880s and additions to the north of this section (Coogee Bay Road frontage) were constructed in 1911. Further additions were carried out in 1913, 1921 and 1929.

The applicant submitted a report prepared by Rappoport Heritage Consultants detailing an assessment of possible heritage impacts. The report notes that surviving external and internal fabric includes:

- fragments of the original 1850s house on the site
- a row of 1880s columns to the ground floor of the nineteenth century wing
- part of the old verandah structure
- fragments of walls

- the 1911 pressed metal ceiling in the Sportsman's Bar
- the 1929 scrolled and moulded ceiling and columns in the present Snack Bar
- 1920s details (ceiling and timber staircase) to the foyer
- possibly the plate rails and part of the fireplace in Selinas

The report provides a detailed assessment of significance for the building including its continuing operation as a hotel, its association with prominent figures in the area, its general form (despite changes to detail), remnants of historical fabric, its importance as a townscape component and link with the foreshore, and as a reflection beachside resort architecture and culture. The report considers that SHIS notes that the below awning facades to Coogee bay Road have been considerably altered and do not constitute original fabric. The report notes that the replacement windows will be incorporated into existing reveals and will replace only the lower section of fixed glazing, retaining the fixed top section with its distinctive diamond pattern of glazing.

It is considered that the proposed replacement glazing will not impact on the integrity of original building fabric or on the streetscape or townscape contribution of the building.

## 10.2 Environmental Amenity Impact

Despite the minor nature of the works proposed, noise was considered an issue and an acoustic report has been submitted by Renzo Tonin & Associates supporting the proposal. The report provides a detailed assessment of the potential noise impacts on nearby residential properties and the following acoustic attenuation measures were recommended:

- a) The proposed windows should be closed between 8pm to 7am and have an acoustic performance in the order or Rw 34 (when closed).
- b) The proposed windows can be opened between 7am and 8pm on the basis of patron capacity in the order of 75 people and low level background music or noise from televisions occurred.
- c) The in-house sound system within the Sports Bar should be controlled by an electronic dependant limiting device (such as a Rane MM42 or DSP systems from BSS and Mediamatrix).

The above measures are considered to be acceptable and have been recommended for inclusion with any consent granted.

## 11. RELATIONSHIP TO CITY PLAN

The relationship with the City Plan is as follows:

- Outcome: 8 A strong local economy  
 Direction: 8a Vibrant business, commercial and industrial sectors that provide ongoing and diverse employment opportunities.  
 8b. Vibrant town centres that adequately serve the community and foster support for local business activity.

## 12. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.



### 13. CONCLUSION

The development application as amended minimises the extent of works to the Coogee Bay frontage of the Coogee Bay Hotel. The heritage significance of the site is retained, amenity impacts to the locality are minimised by appropriate noise mitigation measures. The application is consistent with objectives of the zone and the approved Master plan (deemed DCP) for the site.

The application is therefore recommended for approval.

#### Recommendation:

- A. That Council as the responsible authority grant its consent under Section 96 of the Environmental Planning and Assessment Act 1979 (as amended) to modify Development Consent No. 423/2005 for permission to replace three existing fixed windows on Coogee Bay Road frontage of the Coogee Bay Hotel with new bi-fold windows for 212 Arden Street, Coogee, in the following manner:

a. **Amend Condition No. 1 to read:**

1. The development must be implemented substantially in accordance with the plans numbered DA004A, plan number 05017, undated and received by Council on 26 July 2005, the application form and on any supporting information received with the application, as amended by:

- the *Section 96 "A" plans numbered DA01 dated 29/06/06, plans numbered DA02, dated 28/06/06 and received by Council on 29th June 2006, only in so far as they relate to the modifications highlighted on the Section 96 "A" plans and detailed in the Section 96 "A" application, and further amended by;*
- the *Section 96 "D" plans numbered WD010 Issue H & WD011 Issue E, dated 24/4/07, plan numbered DA02, dated April 2007 and received by Council on 24 April 2007, only in so far as they relate to the modifications highlighted on the Section 96 "D" plans and detailed in the Section 96 "D" application, and further amended by;*
- ***the Section 96 "E" plans numbered SK0111 and SK0113, Issue A, dated 23 February 2007 and 20 June 2007 respectively and received by Council on 19 July 2007, only in so far as they relate to the modifications highlighted on the Section 96 "E" plans and detailed in the Section 96 "E" application;***

except as may be amended by the following conditions and as may be shown in red on the attached plans:"

**b. Add the following conditions:**

80. All recommendations contained in the Acoustic Report prepared by Renzo Tonin & Associates, dated 19 September 2007 and received by Council on 20 September 2007 shall be incorporated into the proposed bi-fold windows to the Sports Bar on the ground floor Coogee Bay Road frontage.
81. To minimise noise spill from the premises, the bi-fold windows to the Sports Bar can be opened between 7am to 8pm daily when the patron numbers in the Sports Bar does not exceed 75. If patron numbers exceed 75 or outside these hours, the bi-fold windows must be closed (in accordance with the above mentioned acoustic report).

When the bi-fold windows are opened, the capacity is to be monitored using an appropriate counting device carried out by a specifically appointed manager or duty officer.

82. During the hours between 8pm – 7am (on all days), the bi-fold windows to the Sports Bar shall be closed (in accordance with the above mentioned acoustic report).
83. The construction must have an acoustic performance in the order of Rw 34, which can be achieved with fixed 6.38 laminated glazing, 10.38 laminated bi-fold windows with acoustic seals and 44mm solid core doors with acoustic seals in accordance with the recommendations by Renzo Tonin & Associates (Project No. TD741-01F02 (RE V 2)), dated 19 September 2007 and received by Council on 20 September 2007. Additional acoustic advice may be sought by a suitably qualified acoustic consultant to ensure acoustic compliance. A validation certificate must be provided to Council prior to an occupation certificate being issued.
84. Music noise levels of the in-house sound system within the Sports Bar shall be controlled by an electronic dependant limiting device in accordance with the recommendations by Renzo Tonin & Associates, dated 19 September 2007 and received by Council on 20 September 2007. The setting of such a device must be determined during an acoustic compliance assessment once the proposed operations have commenced.
85. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council **within Four (4) weeks of 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 of Health, Building & Regulatory Services. Should the report demonstrate that the premises does not comply with the relevant noise criteria, the operator of the hotel must implement the recommendations of the acoustic consultant to ensure that the premises complies with the relevant noise criteria. Any recommendations must also be to the satisfaction of Council's Manager Health, Building & Regulatory Services.
86. The Plan of Management (PoM) (dated 21/11/07) shall be utilised as a single working document for the use and operation of the whole site and shall contain all key acoustic and management components regarding nominated areas/selections of the Coogee Bay Hotel.

**Section 10 'Noise minimisation within the premises'** of the PoM (dated 21/11/07) must be amended to include the requirements of Conditions 81, 82 & 84 of this consent in accordance with the recommendations detailed in the Acoustic Report prepared by Renzo Tonin & Associates, dated 19 September 2007 and received by Council on 20 September 2007.

A copy of the revised PoM must be submitted to Council and approved by the Manager of Health, Building and Regulatory Services **prior to the occupation certificate being issued.**

**Attachment/s:**

Nil

**Item D17/08**