



**MINUTES OF PLANNING COMMITTEE MEETING OF THE COUNCIL
OF THE CITY OF RANDWICK HELD ON TUESDAY, 10TH MARCH 2009
AT 6:20 PM.**

Present:

The Mayor, Councillor B Notley-Smith (East Ward)

North Ward	- Councillors K. Smith, P. Tracey & M. Woodsmith
South Ward	- Councillor R. Belleli
East Ward	- Councillors T. Bowen & M. Matson (Deputy Chairperson)
West Ward	- Councillors B. Hughes, S. Nash (Chairperson) & J. Procopiadis
Central Ward	- Councillors A. Andrews, T. Seng & G. Stevenson

Officers Present:

General Manager	Mr R. Brownlee
Director City Services	Mr J. Frangoples
Director City Planning	Ms S. Truvert
Director Governance & Financial Services	Mr G. Banting
Manager Development Assessment	Mr K. Kyriacou
Manager Administrative Services	Mr D. Kelly

The meeting was adjourned at 6.21 pm and resumed at 6.29 pm.

Apologies/Granting of Leave of Absences

An apology was received from Cr White.

RESOLVED: (Mayor, Cr B Notley-Smith/Hughes) - that the apology received from Cr White be accepted and leave of absence from the meeting be granted. Leave of absence had previously been granted to Cr Matthews, see Minute No PL1/09.

Confirmation of the Minutes

**CONFIRMATION OF THE MINUTES OF THE PLANNING COMMITTEE MEETING
HELD ON TUESDAY 10 FEBRUARY 2009**

PL18/09

RESOLUTION: (Woodsmith/Matson) that the Minutes of the Planning Committee Meeting held on Tuesday 10 February 2009 (copies of which were circulated to all Councillors) be and are hereby confirmed as a correct record of the proceedings of that meeting.

Declarations of Pecuniary and Non-Pecuniary Interests

- (a) Cr Andrews declared a non significant non pecuniary interest in item D17/09 as he knows the applicant through living in the City of Randwick.
- (b) all Councillors declared a non significant non pecuniary interest in item M3/09 as the applicant is a member of Council's staff.
- (c) Cr Procopiadis declared a non significant non pecuniary interest in item D17/09 as he knows the draftsman involved in the application.

Address of Council by Members of the Public

Prior to consideration of the Agenda by the Committee, deputations were received in respect of the following matters:

D14/09 10 IVY STREET, RANDWICK

For Mr Ralph Stanford

D16/09 23 BANKS STREET, MAROUBRA

Against Mr John Buchanan

For Mr David Turner

D17/09 4 RYAN AVENUE, MAROUBRA

Against Mrs Sophia Vlahakis

For Mr George Fotaras (representing the Applicant)

Urgent Business

Nil.

Development Application Reports

D14/09 Development Application Report - 10 Ivy Street, Randwick (DA/937/2007)

PL19/09

RESOLUTION: (Hughes/Procopiadis)

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/937/2007/A for 10 Ivy Street, Randwick in the following manner:

A. Condition No 1 be altered to read as follows;

The development must be implemented substantially in accordance with the plans and application received by Council on the 1st November 2007, the application form and on any supporting information received with the application, as amended by the Section 96 application received by Council on the 14th November 2008, **only in so far as they relate to the modifications detailed in the Section 96 application**, except as may be amended by the following conditions and as may be shown in red on the attached plans.

B. Condition No. 8 be amended to read:-

- "8. The hours of operation for the home piano teaching business shall be restricted to a maximum of 12 hours per week and conducted during

the following periods:

Tuesday, Thursday and Friday: 9.00am -12.00pm and 3.15pm – 6.00pm.”

C. Condition No. 9 be amended to read:-

“9 Group lessons are permitted to be conducted within the premises once a school term, or four times per year, on a Saturday between 1.00 pm and 5.00 pm. Only one instrument is permitted to be played at a time.”

D. Add Condition No. 9a to read:

“9a. The hours of operations and group lessons specified under **Conditions Nos. 8 and 9 of Development Consent No. 937/2007 shall be on a trial basis for twelve (12) months** from the date of the Section 96A determination. Prior to the expiry of the trial period an application must be lodged with Council for approval to continue operating the home activity under these specified hours. Should an application not be received by Council prior to the expiry of the trial period the hours of operation must revert to the following and no group lessons or recitals are permitted to be conducted within the premises.

The hours of operation for the home piano teaching business shall be restricted to:

Tuesday: 3:15pm – 6:00pm
 Thursday: 3:15pm – 6:00pm
 Friday: 3:15pm – 6:00pm, and only during NSW School terms”

MOTION: (Andrews/Tracey) 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/937/2007/A for 10 Ivy Street, Randwick with no twelve month trial period.

AMENDMENT: (Hughes/Procopiadis) CARRIED.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Belleli	Councillor Andrews
Councillor Bowen	Councillor Nash
Councillor Hughes	Councillor Woodsmith
Councillor Matson	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Smith	
Councillor Stevenson	
Councillor Tracey	
Total (10)	Total (3)

MOTION: (Hughes/Procopiadis) CARRIED - SEE RESOLUTION.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Woodsmith
Councillor Belleli	
Councillor Bowen	
Councillor Hughes	
Councillor Matson	
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Smith	
Councillor Stevenson	
Councillor Tracey	
Total (12)	Total (1)

D15/09 Development Application Report - 8-18 Brodie Avenue & 8-18 Curie Street & 6-16 Darwin Avenue & 18-20 Darwin Avenue & 22-32 Darwin Avenue, Little Bay (DA/207/2008/B)

'PL20/09 **RESOLUTION: (Andrews/Smith)**

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 Application No. 207/2008 relating to 8-18 Brodie Avenue & 8-18 Curie Street & 6-16 Darwin Avenue & 18-20 Darwin Avenue & 22-32 Darwin Avenue, Little Bay, to allow for the installation of plantings (climbers) on stainless steel trellis to screen the weathered brick foundations along the eastern façade of the Flowers Ward 5 and 6 **with the exception** of the installation of hedging, trees and planting beds in lawn areas of the Flowers Wards in the following manner:

Amend Condition No. 1 to read as follows:

1. The development must be implemented substantially in accordance with the plans numbered AR-DA-1-002, AR-DA-2-200, AR-DA-2-400, AR-DA-2-500, AR-DA-2-600, AR-DA-2-700, AR-DA-5-210, AR-DA-5-410, AR-DA-5-510, AR-DA-5-610, AR-DA-5-710, AR-DA-6-001, all Revision 1, stamped received by Council on 3 April 2008, the application form, and on any supporting information received with the application, **as amended by the Section 96(1A) plan, L-105, Issue C, dated 4/11/2008 received by Council on the 20 November 2008 only in so far as they relate to the modifications highlighted on the Section 96 plan and detailed in the Section 96 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:

Amend Condition No. 4 to read as follows:

4. There shall be no hedges, fences, shrubs, trellises (with the exception of the trellises and associated climbers proposed in plan L-105, Issue C, dated 4/11/2008 received by Council on the 20 November 2008), ground cover plants or other fixtures including, but not limited to, accent planting against the walls of the buildings. Details shall be submitted to and approved by Council's Director City Planning, in accordance with Section 80A(2) of the Environmental Planning and Assessment Act 1979 prior to construction certificate being issued for the development.

Condition No. 73 is retained.

MOTION: (Andrews/Smith) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**D16/09 Development Application Report - 23 Banks Street, Maroubra
(DA/26/2009)**

PL21/09

RESOLUTION: (Andrews/Procopiadis)

- A. That the Council support the objection under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with Clauses 32 of the Randwick Local Environmental Plan 1998 (as amended), relating to maximum floor space ratio, 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. That Council, as the consent authority, grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/26/2009 for enclose the first floor balcony for unit 1 at 23 Banks Street, Maroubra subject to the following conditions:

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

1. The development must be implemented substantially in accordance with the plans numbered A-001 DA CC to A-005 DA CC, dated December 2008, and received by Council on the 19 January 2009, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:
2. The colours, materials and finishes of the external surfaces to the proposed building works are to be compatible with the existing building and adjacent development to maintain the integrity and amenity of the building.

The following condition is imposed to satisfy relevant requirements of the Sydney Water Corporation.

3. 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 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 imposed to promote ecologically sustainable development and energy efficiency.

4. In all new and upgraded building work, external timber or metal framed and brick veneer walls and roofs are to be provided with insulation (i.e. bulk insulation and a reflective building membrane/reflective sarking/foil insulation), having a minimum total thermal resistance R-value of 3.0 in roofs and 1.5 in external walls. The insulation and reflective building membrane is to be installed in accordance with the relevant requirements of the Building Code of Australia and the manufacturer's details.

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

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

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

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

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

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

6. 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.

7. 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*.

8. **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.

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.

9. **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.

10. 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.

11. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
 - name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable);
 - name, address and telephone number of the *Principal Certifying Authority*; and
 - a statement stating that "unauthorised entry to the work site is

prohibited”.

12. 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.

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

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

14. 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.

15. 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.

16. 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 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:

17. The demolition of buildings and the removal, storage, handling and disposal of building materials must be carried out in accordance with the following regulations:
- The requirements and Guidelines of WorkCover NSW
 - Occupational Health and Safety Act 2000
 - Australian Standard 2601 (2001) – Demolition of Structures
 - The Protection of the Environment Operations Act 1997
 - Protection of the Environment Operations (Waste) Regulation 1996
18. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.
19. 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.
20. A Construction Site Management Plan is to be developed and implemented 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;
- construction traffic management details.

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

21. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a. Building materials, sand, soil, waste materials, construction equipment or other activities 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.
 - b. 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.
 - c. 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. Applications to place a waste container in a public place can be made to Council's Health Building and Regulatory Services section.
 - d. Any part of Council's road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

ADVISORY MATTERS:

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

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

- A2 A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road, nature strip or in any public place: -

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

MOTION: (Andrews/Procopiadis) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**D17/09 Development Application Report - 4 Ryan Avenue, Maroubra
(DA/866/2008)**

PL22/09

RESOLUTION: (Andrews/Smith)

That Council as the consent authority grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/866/2008 for alterations and additions to dwelling, including new first floor level, new boundary fence and new front entry 4 Ryan Avenue, Maroubra subject to the following conditions:

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

1. The development must be implemented substantially in accordance with the plans numbered db113-1, sheets 2 & 3 revision A, dated 2/2/09 and received by Council on the 5th February 2009, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:
2. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the *Environmental Planning and Assessment Act 1979* prior to a construction certificate being issued for the relevant building works.

3. Metal roof sheeting is to be painted or colour bonded to minimise reflection and to be sympathetic and compatible with the building and surrounding environment.
4. To maintain a reasonable degree of privacy to the adjoining property at No. 6 Ryan Avenue the windows to the bedroom and walk in robe are to be of fixed obscured glazing to a height of 1.5m above floor level.

The following condition is imposed to satisfy relevant requirements of the Sydney Water Corporation.

5. 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 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 condition is applied to meet additional demands for public facilities;

6. In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, the following monetary levy must be paid to Council.

Category	Cost	Applicable Levy	S94A Levy
Development cost \$100,001 - \$200,000	\$ 145 000	0.5%	\$ 725.00

The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment.

Council's Section 94A Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

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

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

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

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

9. The following provisions are to be implemented in accordance with the relevant BASIX Certificate and details are to be included in the Construction Certificate documentation (as applicable), to the satisfaction of the Certifying Authority:
- Stormwater management (i.e. rainwater tanks)
 - Water efficiency (i.e. triple A rated taps and showers, dual flush toilets and water re-use)
 - Landscaping provisions
 - Thermal comfort (i.e. construction materials, glazing and insulation)
 - Energy efficiency (i.e. cooling & heating provisions and hot water)

systems)

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

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

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

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

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

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

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

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

13. 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.

14. 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*.

15. **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.

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.

16. **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.

17. 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.

18. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
 - name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable);
 - name, address and telephone number of the *Principal Certifying Authority*; and

- a statement stating that "unauthorised entry to the work site is prohibited".

19. 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.

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

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

21. 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.

22. 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.

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

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

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

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

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

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

24. The demolition of buildings and the removal, storage, handling and disposal of building materials must be carried out in accordance with the following regulations:
- The requirements and Guidelines of WorkCover NSW
 - Occupational Health and Safety Act 2000
 - Australian Standard 2601 (2001) – Demolition of Structures
 - The Protection of the Environment Operations Act 1997
 - Protection of the Environment Operations (Waste) Regulation 1996.
25. 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.
26. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of any building located 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

- effectively support the excavation and building; 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 and particulars of the works to the owner of the adjoining land.

Notes

- *This consent and condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the principal contractor or owner-builder must obtain:*
 - a) *the consent of the owners of such adjoining or supported land to trespass or encroach, or*
 - b) *an access order under the Access to Neighbouring Land Act 2000, or*
 - c) *an easement under section 88K of the Conveyancing Act 1919, or*
 - d) *an easement under section 40 of the Land & Environment Court Act 1979, as appropriate.*
- *Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).*

27. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.

28. 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.

29. 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.

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip 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.

30. 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;
- construction traffic management provisions.

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.

31. 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 the Construction Site Management Plan which must be submitted to and approved by the principal certifying authority **prior to the commencement of any site works.**

32. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:

- a. Building materials, sand, soil, waste materials, construction equipment or other activities 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.
- b. 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.
- c. 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. Applications to place a waste container in a public place can be made to Council's Health Building and Regulatory Services section.
- d. Any part of Council's road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

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

33. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to a construction certificate being issued** for the development, certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition.

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

34. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.

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

35. 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.
36. The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

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

37. Detailed drainage plans shall be submitted to and approved by the certifying authority prior to the issue of a construction certificate. The drainage plans shall demonstrate compliance with the conditions of this development approval.
38. Stormwater runoff from the site shall be discharged either:
- To the kerb and gutter along the site frontage in Ryan Avenue by gravity (without the use of a charged system); OR
 - Through private drainage easements to Council's kerb and gutter (or underground drainage system); OR
 - To a separate suitably sized infiltration area. As a guide, infiltration areas shall be sized based on a minimum requirement of 1 m² of infiltration area (together with 1 m³ of storage volume) for every 20 m² of roof/impervious area on the site. Infiltration systems shall be located a minimum 2.1 metres from any side or rear boundary and 3 metres from adjoining structures.

Prior to the use of infiltration in areas in rear draining lots (where there is no formal overland escape route to Council's kerb and gutter/street drainage system, a geotechnical investigation will be required to determine whether the ground is suitable for infiltration. Should rock and/or a water table be encountered within two metres of the proposed base of the infiltration pit, or the ground conditions comprise low permeability soils such as clay, infiltration may not be appropriate.

NOTE: Should the applicant be unable to obtain a private drainage easement over properties to the rear of the development site (to facilitate stormwater discharge in accordance with option b)); and ground conditions preclude the use of infiltration (Option c), consideration may be given to the use of a charged system or a pump out system to drain that portion of the site that cannot be drained by gravity to the kerb and gutter at the front of the property.

39. Should a charged system be required to drain any portion of the site, the charged system must be designed with suitable clear-outs/inspection points at pipe bends and junctions.
40. 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 required 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 Randwick City Council's Stormwater Code.
41. All pumps out water must pass through a stilling pit prior to being discharged by gravity to the kerb and gutter.

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

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

Tree Management

43. Approval is granted for removal of the following trees, subject to the planting of 1 x 25 litre/300mm (pot/bag size at the time of planting) broad canopied replacement trees (not a palm) within the site. The species selected shall be one which will attain a minimum height of between 4-7 metres in height, with the nominated species and its proposed location to be clearly shown on the construction certificate plans:
- a) Two *Syagrus romanzoffianum* (Cocos Palms), in the front yard, on the northern side of the existing driveway, and one *Olea europaea* (European Olive), also in the front yard, against the northeast corner of the existing dwelling, as all are exempt from the provisions of Council's Tree Preservation Order (TPO);
 - b) One *Archontophoenix cunninghamiana* (Bangalow Palm), also in the front yard, close to the northern edge of the existing dwelling, in order to avoid the likely conflict between this palm and the ground floor entry and first floor balcony works during the course of construction;
 - c) Three *Syagrus romanzoffianum* (Cocos Palms), in the rear yard, around the perimeter of the pool, as despite not being affected by the proposed works, this species is recognised as undesirable due to its low landscape value, which is why it is exempt from Council's TPO.

ADVISORY MATTERS:

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

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

A2 A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road, nature strip or in any public place: -

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

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

MOTION: (Andrews/Smith) CARRIED UNANIMOUSLY - SEE RESOLUTION.

M3/09 Miscellaneous Report - 15 Peters Place, Maroubra (da/69/2006/a)

PL23/09

RESOLUTION: (Andrews/Smith)

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. 0069/2006 relating to 15 Peters Place, Maroubra in the following manner:

Amend Condition No. 1 to read as following:

1. The development must be implemented substantially in accordance with the amended plans numbered Sheets 1,1b,2,3,4,5,6,6.1,6(section), 7.1,7.2,7.3,8 and 9 and stamped as received by Council on 26 July 2006, the application form and on any supporting information received with the application, as amended by the ***Section 96 plans received by Council on 16 October, 2008, only in so far as they relate to the modifications highlighted on the Section 96 plans and detailed in the Section 96 "A" application,*** except as may be amended by the following conditions:

Add the following new condition:

50. The raised planter between the eastern side of the deck and common boundary must:
 - Be located wholly on the subject site,
 - Be at or below the height of the top of the adjacent colourbond boundary fencing
 - Be non-trafficable.
 - Consist of screen planting along its length that will be maintained in a healthy condition and have a height at maturity consistent with the top of the adjacent lattice screen located above the colourbond boundary fencing.

Details shall be indicated on plans accompanying an application for a Construction Certificate to the satisfaction of Council.

MOTION: (Andrews/Smith) CARRIED UNANIMOUSLY - SEE RESOLUTION.

Miscellaneous Reports

**M4/09 Miscellaneous Report - Review of Mediation Program
(F2004/07467)**

PL24/09

RESOLUTION: (Matson/Andrews) that Council continue to provide an independent mediation program.

MOTION: (Matson/Andrews) CARRIED - SEE RESOLUTION.

**M5/09 Miscellaneous Report - Affordable Housing Dwellings at 106/2-4
Jenner Street and 3/2 Millard Drive, Little Bay - Classification of
Land under the Local Government Act 1993. (F2004/07991)**

PL25/09

RESOLUTION: (Andrews/Belleli) that Council resolve to classify the affordable housing units located at 106/2-4 Jenner Street, Little Bay and 3/2 Millard Drive, Little Bay as 'operational' land in accordance with the provisions of the Local Government Act 1993.

MOTION: (Andrews/Belleli) CARRIED - SEE RESOLUTION.

Notices of Rescission Motions

Nil.

The meeting closed at 7.38 pm.

The minutes of this meeting were confirmed at the Planning Committee Meeting of the Council of the City of Randwick held on Tuesday, 14 April 2009.

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CHAIRPERSON