

PLANNING COMMITTEE MEETING
SUPPLEMENTARY BUSINESS PAPER

TUESDAY 10 AUGUST 2010

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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, 10 August 2010 at 6:00pm.

NOTICE OF RESCISSION MOTION

NR5/10	Notice of Rescission Motion from Crs Andrews, Bowen & Stevenson - 10 -14 Duke Street, Kensington	1
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Ray Brownlee
GENERAL MANAGER

Notice of Rescission Motion No. NR5/10



Subject: Notice of Rescission Motion from Crs
Andrews, Bowen & Stevenson - 10 -14
Duke Street, Kensington

Folder No: DA/691/2009

Submitted by: Councillor Andrews, Central Ward; Councillor Bowen, East
Ward; Councillor Stevenson, Central Ward

That the resolution passed at the Planning Committee meeting held on Tuesday, 20 July, 2010 reading as follows:

RESOLUTION: (Hughes/Woodsmith) - that

- A. Council does not support the objections under State Environmental Planning Policy No. 1 – Development Standards in respect to non-compliance with Clauses 32(1) and 33(4) of Randwick Local Environmental Plan 1998, relating to floor space ratio and external wall height respectively, on the grounds that the proposed development does not comply with the objectives of the above clauses, and will adversely affect the amenity of the adjoining premises and the locality, and that the Department of Planning be advised accordingly.
- B. Council, as the consent authority, refuses development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 691/2009 for alterations and additions to an approved residential flat building, including construction of loft bedrooms for Units 12, 13, 16 and 17; reorientation of the approved loft bedrooms of Units 14 and 15 to face east and west; addition of balconies to the top level; reconfiguration of the roof form; installation of shade awnings over various existing windows; installation of pergolas for the ground floor courtyards; and minor changes to the external finishes; at No. 10-14 Duke Street, Kensington, for the following reasons:
1. the proposal is of excessive bulk and scale.
 2. the proposal does not comply with the maximum FSR or height standards in the LEP.
 3. the proposal is an overdevelopment of the site.
 4. the proposal adversely impacts on adjoining and neighbouring properties in terms of overshadowing.
 5. the orientation of the proposed units on the upper level is poor.

BE AND IS HEREBY RESCINDED.

If the Rescission Motion is carried, it is intended to move the following motion:

- A. That Council supports the objections under State Environmental Planning Policy No. 1 – Development Standards in respect to non-compliance with Clauses 32(1) and 33(4) of Randwick Local Environmental Plan 1998, relating to floor space ratio and external wall height respectively, on the grounds that the

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proposed development complies with the objectives of the above clauses, and will not adversely affect the amenity of the adjoining premises and the locality, and that the Department of Planning be advised accordingly.

- B. That Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 691/2009 for alterations and additions to an approved residential flat building, including construction of loft bedrooms for Units 12, 13, 16 and 17; reorientation of the approved loft bedrooms of Units 14 and 15 to face east and west; addition of balconies to the top level; reconfiguration of the roof form; installation of shade awnings over various existing windows; installation of pergolas for the ground floor courtyards; and minor changes to the external finishes; at No. 10-14 Duke Street, Kensington, subject to the following conditions:

Conditions of Consent

REFERENCED PLANS:

1. The development must be implemented substantially in accordance with the following plans:

Plan Number	Dated	Received	Prepared By
DA-01	January 2010	22 April 2010	CMT Architects
DA-02	January 2010	22 April 2010	
DA-03	January 2010	22 April 2010	
DA-04	January 2010	2 July 2010	
DA-05	January 2010	2 July 2010	
DA-06	January 2010	2 July 2010	
DA-07	April 2010	2 July 2010	
DA-08	April 2010	2 July 2010	
2723a L-01(A)	15/04/10	22 April 2010	RFA Landscape Architects

the application form and any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:

ENVIRONMENTAL AMENITY:

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

- The colours, materials and finishes of the external surfaces to the building are to be consistent with the submitted "Schedule of External Finishes – 10-14 Duke Street, Kensington", undated, and stamp-received by Council on 22 April 2010.
- This Consent shall operate in conjunction with the approved development application DA/506/2004, as amended by any subsequent Section 96 modifications, relating to the subject site.
- A detailed cost report prepared by a qualified and practising Quantity Surveyor (who possesses Associate Membership or above of the Australian Institute of Quantity Surveyors or the Royal Institute of Chartered Surveyors or

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issuing of any Construction Certificate relating to the subject development. **Council's written acceptance of the cost report must be obtained prior to the issuing of any Construction Certificate relating to the subject development.**

The report is to provide an estimate of the total development cost (as defined in Council's Section 94A Development Contributions Plan) of the proposed development as described in the approved drawings and must include relevant break-downs. The report is to be signed-off as being correct to the best knowledge of the Quantity Surveyor.

Where the cost estimate indicated in the aforementioned report is over the figure provided in the letter from Wonderbuilt Engineering and Construction, dated 12 April 2010, being \$155,000 (including GST), **additional Section 94A development contributions will apply and must be fully paid to Council, prior to the issuing of any Construction Certificate for the development.**

5. A minimum of eight (8) bicycle parking spaces are to be provided within the proposed development. The design and construction of the bicycle parking facilities are to be compliant with Australian Standard 2890.3: Bicycle Parking Facilities. Details of compliance are to be included in the Construction Certificate documentation.
6. The soffit/false ceiling on the underside of the roof overhang over the top (third) floor level shall be constructed with treated timber or similar materials to improve the visual appearance of the development. Details demonstrating compliance are to be incorporated in the Construction Certificate documentation.
7. The roof ridge of the proposed development shall be no higher than RL38.43 AHD.
8. A skylight is to be installed over the northern balcony attached to the loft bedroom of Unit 14. Similarly, a skylight is to be installed over the southern balcony attached to the loft bedroom of Unit 15. Details demonstrating compliance are to be incorporated in the Construction Certificate documentation.
9. Privacy screens are to be installed on the eastern and western elevations of the northern balcony attached to the loft bedroom of Unit 14 as well as the southern balcony attached to the loft bedroom of Unit 15.

The screens shall have a height of 1500mm as measured from the finished floor level, and shall be constructed with:

- Obscured glazing; or
- 35mm wide fixed metal slats, horizontally or vertically positioned, and spaced at a maximum of 35mm; or
- Another appropriate design that effectively restricts cross viewing of the adjoining residential premises.

Details demonstrating compliance are to be incorporated in the Construction Certificate documentation.

10. The enclosure of balconies is prohibited by this consent.
11. The reflectivity index of glass used in the external façade of the proposed

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development must not exceed 20 percent.

12. Lighting to the premises shall be designed in accordance with AS 4282 – 1997: *Control of the Obtrusive Effects of Outdoor Lighting* 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.
13. In accordance with the provisions of clauses 143A and 154A of the Environmental Planning & Assessment Regulation 2000, a 'Design Verification Certificate' must be provided to the Certifying Authority and the Council, **prior to issuing a construction certificate** and an **occupation certificate**, respectively.

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

14. 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.

The following condition is applied to meet additional demands for public facilities:

15. In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, based on the development cost of \$155,000, the following applicable monetary levy must be paid to Council: **\$775.00**.

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.

16. Open-able windows to a room, corridor, stairway or the like with a floor level more than 4m above the external ground/surface level, must be designed and constructed to reduce the likelihood of a child accessing and falling through the window opening.

Options may include one or more of the following measures:

- i) The window having a minimum sill height of 1.5m above the internal floor level,
- ii) Providing a window locking device at least 1.5m above the internal floor

- level,
- iii) Fixing or securing the window (e.g. by screws or a window locking device) to restrict or to be able to secure the extent of the opening to a maximum of 125mm,
- iv) Installing a fixed heavy-duty gauge metal screen over the opening (e.g. A metal security screen or metal security mesh and frame system, but not standard fly-screen material),
- v) Other appropriate effective safety measures or barrier.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations and to provide for reasonable levels of safety and amenity:

Regulatory

17. 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.

18. 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*.

19. **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 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.

20. **Prior to the commencement of any building or fire safety 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 and notify the *Principal Certifying Authority* and Council accordingly in writing, and
- iii) 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 license, in accordance with the provisions of the Home Building Act 1989.

21. 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* 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.

22. 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,
 - name, address and telephone number of the *Principal Certifying Authority*,
 - a statement stating that "unauthorised entry to the work site is prohibited".

23. 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.

24. **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.

25. A Fire Safety Certificate must be submitted to Council **prior to the issuing of an Occupation Certificate**, in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000.

A single and complete *Fire Safety Certificate* must be provided which includes details of all of the fire safety measures contained in the building and as detailed in the *fire safety schedule* attached to the Construction Certificate.

Prior to issuing any Occupation Certificate the Principal Certifying Authority must be satisfied that all of the relevant fire safety measures have been included and are sufficiently detailed within the *Fire safety Certificate*.

A copy of the *fire safety certificate* must be displayed in the building near the entrance and a copy must be forwarded to the NSW Fire Brigades.

26. 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.

27. 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**.

Structural adequacy

28. A Certificate prepared by a *professional engineer*, shall be submitted to the Council **prior to issuing a construction certificate**, certifying the structural adequacy of the existing building to support the new loads to be imposed by the provision of an additional storey.

29. A Certificate 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 issuing an occupation certificate or strata subdivision certificate**, which certifies that the structural adequacy of the building.

Construction site management

30. The removal, storage, handling and disposal of building materials must be carried out in accordance with the following requirements (as applicable):

- Australian Standard 2601 (2001) – Demolition of Structures
- Occupational Health and Safety Act 2000
- Occupational Health and Safety (Hazardous Substances) Regulation 2001
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001
- WorkCover NSW Codes of Practice and Guidelines
- The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.
- Randwick City Council Asbestos Policy (adopted 13 September 2005)

31. 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.

32. 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.

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.

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

- a) 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.
- b) 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.
- c) 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.

- d) 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 & Regulatory Services department.
- e) 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. Sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction.
- f) Public access to demolition/building works, materials and equipment on the site is to be restricted and a temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

Temporary fences or hoardings or the like 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 or hoardings 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 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.

- g) 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.
- h) 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.
- i) 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 upon any part of the 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, container or other article.

Fire safety

34. All new building works must satisfy the relevant performance or deemed-to-satisfy provisions of the Building Code of Australia.
35. The fire safety upgrading works must be carried out **prior to issuing of an Occupation Certificate** for the development and written confirmation must be provided to Council (from the Principal Certifying Authority) which confirms that all of the upgrading works have been carried out in accordance with the conditions of consent.

ADVISORY MATTERS:

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

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.

The applicant/developer is 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 (as applicable) prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

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

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