

**MINUTES OF ORDINARY COUNCIL MEETING OF THE COUNCIL OF  
THE CITY OF RANDWICK HELD ON TUESDAY, 19 APRIL 2011 AT  
6:07PM**

**Present:**

The Mayor, Councillor M Matson (Chairperson) (East Ward)

Councillor K Smith (Deputy Mayor) (North Ward)

North Ward	- Councillors P Tracey & M Woodsmith
South Ward	- Councillors R Belleli, C Matthews & A White
East Ward	- Councillors T Bowen & B Notley-Smith
West Ward	- Councillors B Hughes, J Procopiadis & S Nash
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 Truuvert
Director Governance & Financial Services	Mr G Banting
Manager Administrative Services	Mr D Kelly
Manager Strategic Planning	Ms K Armstrong
Communications Manager	Mr J Hay
Property Officer	Mr J Drivas
Manager Organisational Staff Services	Ms F Calabrese

**Prayer & Acknowledgement of Local Indigenous People**

The Council Prayer was read by Cr White. The Acknowledgement of Local Indigenous People was read by Cr Woodsmith.

**Apologies/Granting of Leave of Absences**

An apology was received from Cr Tracey.

**RESOLVED: (Bowen/Stevenson)** that the apology received from Cr Tracey be accepted and leave of absence from the meeting be granted.

**Confirmation of the Minutes**

**CONFIRMATION OF THE MINUTES OF THE ORDINARY COUNCIL MEETING**

**HELD ON TUESDAY 22 MARCH 2011**

72/11

**RESOLUTION: (Woodsmith/Andrews)** that the Minutes of the Ordinary Council Meeting held on Tuesday 22 March 2011 (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) The Mayor, Cr Matson declared a non significant non pecuniary interest in item CP25/11 as the speaker against the item may have assisted him during the last Council elections.
- (b) Cr Smith declared a significant non pecuniary interest in item CP27/11 as his employer has a business relationship with the subject premises. Cr Smith will not be taking part in the debate or voting on the matter.
- (c) Cr Woodsmith declared a non significant non pecuniary interest in item CP25/11 as she knows some of the people addressing Council on the matter.
- (d) Cr Matthews declared a non significant non pecuniary interest in item CP26/11 as he knows the speaker through the La Perouse Precinct Committee.

**Address of Council by Members of the Public**

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

CP22/11 21 STOREY STREET, MAROUBRA

**Objector** Mark Swain

**Applicant** Payarm Eskandari

CP23/11 146 TUNSTALL AVENUE, KINGSFORD

**Applicant** Simon Georges

CP25/11 RANDWICK CITY LANDSCAPE ELEMENTS

**Against** Lucie Ghosh (resident from Abbott St)

**Against** David Head (resident from Alison Rd)

**For** Mark England (rep Coogee Precinct)

CP26/11 DRAFT FINAL PLAN OF MANAGEMENT OF PRINCE HENRY CENTRE

**Against** Charles Abela - La Perouse Precinct

The meeting was adjourned at 6.57pm and was resumed at 7.18pm.

**RESOLVED: (PROCEDURAL MOTION) (Procopiadis/Andrews)** that Council deal with all matters that were subject to addresses by the public immediately. **CARRIED.**

## Mayoral Minutes

### **MM29/11 Mayoral Minute - Waiving of Fees - Banner for St Anthony's Primary School (F2004/06257)**

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73/11 **RESOLUTION: (Mayor, Cr M Matson)** that:

- a) the fees associated with the installation and dismantling of two banners and the hire of Council's banner poles for St Anthony's Primary School Clovelly (on the flagpoles at the intersection of Alison Road and Doncaster Avenue and Arden Street and Malabar Road, South Coogee) be waived and \$4,750.00 be allocated from the 2010/11 Contingency Fund; and
- b) the organiser undertakes to appropriately and prominently acknowledge and promote Council's contribution prior to and during the Open Day.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

### **MM30/11 Mayoral Minute - NSW Fire Brigades Contribution 2011/12 (F2011/00090)**

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74/11 **RESOLUTION: (Mayor, Cr M Matson)** that Council note the proposed increase in the NSW Fire Brigades Contribution, the outcome of the impending meeting with Emergency Management NSW be reported back to Council and that the State Member for Coogee be requested to take this matter up on Council's behalf.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

### **MM31/11 Mayoral Minute - NSW State Election 2011 - Results for Local Seats (F2007/00551)**

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75/11 **RESOLUTION: (Mayor, Cr M Matson)** that the Mayor write to the successful local candidates in the recent State Election congratulating them on their success and requesting a meeting to discuss local issues and priorities.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

### **MM32/11 Mayoral Minute - 1-11 Rainbow Street, Kingsford (F2004/06336)**

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76/11 **RESOLUTION: (Mayor, Cr M Matson)** that Council asks Local Members to make strong representations to the State Government to provide alternative sites for these valuable community service providers.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

### **MM33/11 Mayoral Minute - Randwick City Festival of the Bike (F2011/00157)**

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77/11 **RESOLUTION: (Mayor, Cr M Matson)** that Council endorse the allocation of \$4,000.00 additional funding for a 'Randwick City Festival of the Bike' component at the 2011 Eco Living Fair from the 2011/12 Events budget.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

### **MM34/11 Mayoral Minute - Seeking Clarification from the New NSW Government on Chinese Market Gardens (F2004/07905)**

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78/11 **RESOLUTION: (Mayor, Cr M Matson)** that Council endorse writing to the NSW

Minister for Planning and Infrastructure, seeking clarification on the status of the Part 3A Concept Plan request lodged by the Eastern Suburbs Memorial Park Trust to expand into the Chinese Market Gardens and reiterating the Council's position and community support for the continued use and protection of these gardens.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

**MM35/11 Mayoral Minute - New Environmental Category Prize for Randwick Urban Shorts Youth Film Festival (F2005/00872)**

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79/11 **RESOLUTION: (Mayor, Cr M Matson)** that Council endorse the introduction of an additional environmental prize to be awarded as part of its annual Urban Shorts Film Festival, with the prize money of \$300.00 to be funded from the schools education budget of the Environmental Levy Program for the next three years.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

**MM36/11 Mayoral Minute - Recognition of Bravery - Council Lifeguard Pat Falzon (F2006/00185)**

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80/11 **RESOLUTION: (Mayor, Cr M Matson)** that Council write to The Royal Humane Society and nominate Mr Pat Falzon for a Royal Humane Society Bronze Medal Award for Bravery to recognise his actions that day on Maroubra Beach which saved a woman's life.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

**MM37/11 Mayoral Minute - Rail Transport MOU - Additional Partner - Centennial Park/Moore Park Trust (F2008/00375)**

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81/11 **RESOLUTION: (Mayor, Cr M Matson)** that Council note and endorse the Centennial Park/Moore Park Trust as a new signatory and partner to the MOU on rail transport infrastructure to Randwick City.

**MOTION: (Mayor, Cr M Matson) CARRIED - SEE RESOLUTION.**

**Urgent Business**

Nil.

**Director City Planning Reports**

**CP20/11 Director City Planning Report - 508-510 Bunnerong Road, Matraville (DA/757/2008/A)**

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82/11 **RESOLUTION: (Andrews/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/757/2008 for demolition of existing buildings and construction of a mixed use development being one 4 storey building and one 5 storey building comprising 12 residential units, 2 commercial/retail spaces, basement parking for 21 vehicles and associated works at 508-510 Bunnerong Road, Matraville, in the following manner:

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

1. The development must be implemented substantially in accordance with the plans numbered, DA1000, DA1100, DA2000, DA2001, DA2002, DA2003, DA3000, DA3001, and DA3100, all Revision A, dated October 2008, and stamped received by Council on 21 October 2008, the application form and any supporting information received with the application, as amended by the **Section 96 'A' plans numbered DA-5, DA-6, DA-7, DA-8, DA-9, DA-10, DA-15, and DA-16, all issue B, all dated 22/02/2011, and Street Perspective, all received by Council on the 22 February 2011, only in so far as they relate to the modifications highlighted on the Section 96 plans and 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:

**2. Add a new condition as follows:**

118. All proposed angled windows in the internal east and west elevations of the approved development that encroached into the 12m separation space between the approved buildings shall be deleted from the *Section 96 'A' plans numbered DA-5, DA-6, DA-7, DA-8, DA-9, DA-10, DA-15, and DA-16, all issue B, all dated 22/02/2011, and Street Perspective, all received by Council on the 22 February 2011.*

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

**CP21/11 Director City Planning Report - 35 Napier Street, Malabar (DA/795/2009/B)**

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83/11

**RESOLUTION: (Andrews/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/795/2009 to modify the approved development by modification of approved development by widening of driveway, alterations to internal floor plans, external stairs, balustrades, roof, pool area, window and door openings, provision of new balcony and pergola to dwelling B and new privacy screens for 35 Napier Street, Malabar in the following manner:

**Amend Condition 1 to read:**

1. The development must be implemented substantially in accordance with the amended plans dated 18/6/2010 prepared by Classic Plans Pty Ltd and received by Council on 28 June 2010 and numbered 014/09 revision D, (sheets 1, 1A, 2, 3, 4, 5, 6, 7A, 8 and 9) any supporting information received with the application, as amended by the following: -
  - Section 96'A' plans numbered 1 of 7 through to 6 of 7 (Revision E), received by Council on 13 October 2010 and by plan number 7 of 7 (Revision F), received by Council on 12 November 2010, and
  - **Section 96 'B' plans numbered 200, 210, 211, 212, 213, 300, and 301, all Revision 1, all dated 04/03/2011 and received by Council on 7 March 2011**

***only in so far as they relate to the modifications to windows, external materials, and internal modifications, excluding the increased height of the building highlighted on the Section 96 plans and 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

Amend condition No. 28 to read:

28. Prior to the issuing of an Occupation Certificate the applicant must meet the full cost for Council or a Council approved contractor to:
- a) Construct a full width vehicular crossing and layback at kerb opposite the vehicular entrance in Napier Street. The works shall include any retaining walls with associated guard/handrail as required by Council's Engineering Technical Officer.
- Note: The internal driveway servicing the garage in Napier Street is to be constructed in accordance with the driveway ramp section plan submitted to Council (dwg No 014/09 Sheet7A of 9 dated 30/6/10)
- b) Construct a new concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site in Victoria Street.
  - c) Remove any redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
  - d) Construct a new concrete footpath, adjacent to the kerb, along the Victoria Street site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.

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

**CP22/11 Director City Planning Report - 21 Storey Street, Maroubra (DA/960/2010)**

Note: A rescission motion was submitted on this matter in accordance with Council's Code of Meeting Practice and will be heard at the May ordinary Council meeting.

84/11

**RESOLUTION: (White/Bowen)**

That Council, as the responsible authority, grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/960/2010 for construction of a granny flat above the existing detached garage at 21 Storey Street, Maroubra, subject to the following:

1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received</b>
DA-02 (Issue A)	Abstract Designs	27 /10/2010	2 /11/2010
DA-03 (Issue B)	Abstract Designs	2/03/2011	2 March 2011
DA-04 (Issue B)	Abstract Designs	2/03/2011	2 March 2011
DA07 (Issue B)	Abstract Designs	2/03/2011	2 March 2011

<b>BASIX Certificate</b>	<b>No.</b>	<b>Dated</b>	<b>Received</b>
	368681S	30 March 2011	30 March 2011

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:

- a. A privacy screen having a height of 1.8m above the rear terrace floor level must be provided to the eastern side of the terrace directly opposite the stair access and is to extend for a length of 1.2m on the northern side of the terrace. The privacy screen must be constructed of metal or timber and the total area of any openings within the privacy screen must not exceed 25% of the area of the screen. Alternatively, the privacy screen may be constructed with translucent, obscured, frosted or sandblasted glazing in a suitable frame.

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

3. 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 and the streetscape.
4. Metal roof sheeting is to be pre-painted (e.g. colourbond).
5. There must be no encroachment of the structure/s or associated articles onto Council's road reserve, footway, nature strip or public place.

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

6. 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 imposed to promote ecologically sustainable development and energy efficiency:**

**BASIX Requirements**

7. In accordance with section 80A(11) of the *Environmental Planning & Assessment Act 1979* and clause 97A of the *Environmental Planning & Assessment Regulation 2000*, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, 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.

**Energy & Water Efficiency**

8. The following energy efficiency and water saving measures are to be implemented in all new and upgraded building work and details included in the construction certificate:
- a) The consumption of water shall be minimised by the use of triple A rated water efficient plumbing fixtures (taps and shower roses) and water efficient dual flush toilets.
  - b) New external timber or metal framed and brick veneer walls and roofs are to be provided with insulation (i.e. bulk insulation and a reflective building membrane/reflective sarking/foil insulation), having a minimum total thermal resistance R-value of 3.0 in roofs and 1.5 in external walls. The insulation and reflective building membrane is to be installed in accordance with the relevant requirements of the Building Code of Australia and the manufacturer's details.
  - c) New hot water service pipes are to be provided with insulation and must also satisfy any relevant requirements of Building Code of Australia and AS 3500.

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

9. 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.

10. 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:**

11. 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.



12. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
13. **Prior to the commencement of any building works**, the following requirements must be complied with:
- a) 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*.  
  
A copy of the construction certificate, the approved development consent plans and 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.
  - b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
  - c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the PCA and Council are to be notified accordingly; and
  - d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
  - e) at least two days notice must be given to the Council, in writing, prior to commencing building works.
14. 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 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).
15. 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".

16. The relevant requirements of the *Home Building Act 1989* must be complied with, in accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*.

Details of the Licensed Building Contractor (and a copy of any relevant Certificate of Insurance) or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifying Authority and Council **prior to commencement of works**.

17. 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.*

18. 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.

19. 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.

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:**

20. 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 garage/terrace structure to support the proposed granny flat.

21. The demolition of buildings and the removal, storage, handling and disposal of building materials must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment & Climate Change (formerly EPA) and Randwick City Council policies, including:

- Occupational Health and Safety Act 2000 & Regulations

- WorkCover NSW Guidelines & Codes of Practice
- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 2005
- Relevant DECC/EPA Guidelines
- Randwick City Council Asbestos Policy (adopted 13 September 2005)

*A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*

22. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

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

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

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

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council, not less than 2 days before commencing such works.

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

23. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Relevant Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy (adopted 13 September 2005)
- A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation*

2005.

- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council and the principal certifying authority immediately upon completion of the asbestos related works, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

*A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*

24. 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.
25. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
- a) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development must, at the person's own expense:
- i) protect and support the adjoining premises from possible damage from the excavation, and
- ii) where necessary, underpin the adjoining premises to prevent any such damage.
- b) The condition referred to in subclause a) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
26. A dilapidation report prepared by a professional engineer, building surveyor or other suitably qualified independent person must be submitted to the satisfaction of the Principal Certifying Authority **prior to commencement** of any demolition, excavation or building works, in the following cases:
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
  - new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or a terraced dwelling),
  - excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
  - as otherwise may be required by the Principal Certifying Authority.

The report (including photographs) are required to detail the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises, which may be affected by the subject

works. A copy of the dilapidation report is to be given to the owners of the premises encompassed in the report/s before commencing any works.

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.

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.

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 requirements of the *Protection of the Environment Operations Act 1997* and NSW DECC Guidelines must be satisfied at all times.

A *Construction Noise Management Plan* is required to be developed and implemented throughout the works, to the satisfaction of the Council. A copy of the strategy must be provided to the Principal Certifying Authority and Council **prior to the commencement of site works**.

The Construction Noise Management Plan is to be prepared in accordance with the relevant provisions of the DECC Construction Noise Guideline.

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, to the satisfaction of Council.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

If 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 developed and implemented **prior to the commencement of any 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 Construction Site Management Plan must be provided to the Principal Certifying Authority and Council. A copy must also be maintained on site and be made available to Council officers upon request.

The sediment and erosion control measures are to be in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to the satisfaction of Council and details are to be provided in the Construction Site Management Plan.

31. 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.

#### **ADVISORY MATTERS:**

A1 Demolition, building or excavation work must not be commenced until;

- A Construction Certificate has been obtained from Council or an Accredited Certifier
- Council or an Accredited Certifier has been appointed as the Principal Certifying Authority for the development
- Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

Failure to comply with these important requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million under the *Environmental Planning & Assessment Act 1979*. Alternatively, Council may issue a penalty infringement notice (for up to \$1,500) for each offence.

- 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 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place, to the satisfaction of the certifying authority.
- A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA) and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards and you are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

**MOTION: (Andrews/Seng)** that development consent be refused due to the adverse visual impact, adverse privacy impact, loss of amenity to adjoining properties, excessive bulk and scale, the proposal is not in the public interest and the proposal is not compatible with the surrounding area. **LOST.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Andrews	Councillor Belleli
Councillor Matthews	Councillor Bowen
Councillor Nash	Councillor Hughes
Councillor Procopiadis	Councillor Matson
Councillor Seng	Councillor Notley-Smith
Councillor Smith	Councillor White
Councillor Stevenson	Councillor Woodsmith
<b>Total (7)</b>	<b>Total (7)</b>

The motion was declared lost on the casting vote of the Mayor.

**MOTION: (White/Bowen) CARRIED – SEE RESOLUTION.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Belleli	Councillor Andrews
Councillor Bowen	Councillor Matthews
Councillor Hughes	Councillor Nash
Councillor Matson	Councillor Procopiadis
Councillor Notley-Smith	Councillor Seng
Councillor White	Councillor Smith
Councillor Woodsmith	Councillor Stevenson
<b>Total (7)</b>	<b>Total (7)</b>

The motion was carried on the casting vote of the Mayor.

**CP23/11 Director City Planning Report - 146 Tunstall Avenue, Kingsford  
(DA/711/2010)**

85/11

**RESOLUTION: (Andrews/Procopiadis)**

- A. That Council support the objection under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with Clauses 20F and 20G of the Randwick Local Environmental Plan 1998 (Consolidation), relating to maximum floor space ratio and maximum external 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. That Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No D/711/2010 for the demolition of an existing dwelling and construction of a part-two and part-three level attached dual occupancy with garaging, two in ground swimming pools and associated site works at 146 Tunstall Avenue, Kingsford, subject to the following conditions:-
1. The development must be implemented substantially in accordance with the amended plans numbered DA 0.01, DA 0.03, DA 0.04, DA 0.05, DA 0.06, DA 0.07, DA 1.01, DA 1.02, DA 1.03, 1.04, DA 2.01, DA 2.02, DA 2.03, DA 2.04, DA 2.05, DA 2.06, DA 2.07, DA 3.01, DA 3.02, DA 3.03, and DA 3.04, all Issue C, all dated 3 March 2011, and stamped received by Council on 4 March 2011, and the application form, and on any supporting information received with the application, except as may be amended by the details/amendments approved pursuant to the deferred commencement conditions and by the following conditions and as may be shown in red on the attached plans:

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

2. The colours, materials and finishes of the external surfaces to the proposed development are to be compatible with adjacent developments to maintain the integrity and amenity of the building and the streetscape. Specifically, the use of natural materials rather than the proposed predominantly painted surface shall be provided.

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. Street and unit numbering must be provided to the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council, prior to an occupation certificate being issued for the development. In this regard, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and unit numbers for the development, prior to issue of the Occupation Certificate.



4. The reflectivity index of glass used in the external façade of the development must not exceed 20 percent. Details 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.
5. 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.
6. 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.
7. 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.

8. 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 Certificates for this development are fulfilled.
9. In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, relevant BASIX Certificates 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.

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 has been fulfilled.

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

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

11. 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 more than \$200,000	\$1,200,000	1%	\$12,000.00

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](http://www.randwick.nsw.gov.au).

**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:**

12. 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.

13. 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*.
14. **Prior to the commencement of any building or fire safety 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

15. **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.
  - 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 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.

16. 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.

17. 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".
18. 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.

19. **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.

20. 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.

21. 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.*

22. 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 group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:**

23. A Certificate prepared by a professional *engineer* shall be submitted to the certifying authority **prior to issuing of a Construction Certificate**, which certifies that the structural adequacy of the existing building to support the loads superimposed by the proposed third floor addition.

**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. Demolition work and 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)
25. In accordance with Council's Asbestos Policy, the following requirements are to be satisfied if any materials containing asbestos are present in the building:
- a) Randwick City Council Asbestos Policy (adopted 13 September 2005).
- A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*
- b) A Demolition Work Plan must be developed and implemented in accordance with Australian Standard AS2601-2001, Demolition of Structures.
- c) A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.
- d) Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996.
- e) Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.
- f) On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
26. 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.

27. 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).*

28. 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.

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

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.

30. 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.

a) 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.

b) 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.

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 & Regulatory Services department.

d) 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.

e) 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.

- f) 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.
- g) 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.
- h) 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.

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

- 31. The following damage/civil works security deposit requirement is to be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to the roadway, footway, verge or any public place; or as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the Environmental Planning and Assessment Act 1979:
  - a) \$1000.00 - Damage/Civil Works Security Deposit

The damage/civil works security deposit may be provided by way of a cash or cheque with the Council and is refundable upon:

- A satisfactory inspection by Council that no damage has occurred to the Council assets such as roadway, kerb, guttering, drainage pits footway, or verge; and
- Completion of the civil works as conditioned in this development consent by Council.

The applicant is to advise Council, in writing, of the completion of all building works and/or obtaining an occupation certificate, if required.

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

- 32. Prior to the issuing of an Occupation Certificate the applicant must meet the full cost for Council or a Council approved contractor to:
  - a) Construct 2 new concrete vehicular crossings and laybacks at kerb opposite the vehicular entrances to the site.



- b) Remove the redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
  - c) Construct a concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.
33. 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.
34. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works" and the following requirements:
- a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.
  - b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a *Pre-paid Works Application Form*, prior to issuing an occupation certificate, together with payment of the relevant fees.
  - c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.
  - d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing.
35. Prior to the issuing of a Construction Certificate the applicant is to include additional plans showing internal driveway grades as follows:
- 1:8 for the first 2.0m (transition) inside the site, then 1:4.5 for the next 2.325m and 1:8 for the last 2.0m (transition) before entering into the garage.

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

36. The Council's Development Engineer has inspected the above site and has determined that the design alignment level at the property boundary for driveways, access ramps and pathways or the like, must be as follows:
- Southern Driveway Entrance – RL 28.95 AHD  
Pedestrian Entrances – RL 28.925 AHD  
Northern Driveway Entrance – RL 28.90 AHD
37. The design alignment levels issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street

boundary, as issued by the Council, must be strictly adhered to.

38. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$805.00 calculated at \$44.00 (inclusive of GST) per metre of site frontage. This amount is to be paid to Council prior to a construction certificate being issued for the development.

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

39. 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.
40. 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.
41. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.

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

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the website [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under Developing Your Land" or telephone 13 20 92 for assistance.

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

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

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the plan of subdivision, whichever occurs first.

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

43. **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. This may involve either connection to the Council's street gutter, or into a Council stormwater pit. Note: All proposals should indicate the location of the closest Council stormwater pit and line regardless of the point of discharge. This information can be obtained by a visual inspection of the area and perusing Council's drainage plans.
  - 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.
44. All stormwater run-off naturally draining to the site must be collected and discharged through this property's stormwater system. Such drainage must, if necessary, be constructed prior to the commencement of building work.
45. All site stormwater must be discharged (by gravity) to either:
- a) The kerb and gutter or drainage system at the front of the property;  
OR

- b) To an infiltration system designed in accordance with Council's requirements (subject to a satisfactory Geotechnical Engineers report)

Should the applicant demonstrate ground conditions preclude the use of infiltration, a pump system may be permitted. The pump 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.

46. Should stormwater be discharged to Council's street drainage system, on-site detention must be provided to ensure that the maximum discharge from the above site is not to exceed that which would occur during a **1 in 5** year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the above site for all storms up to the 1 in 20 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by the Director of City Planning. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

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

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

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

47. Should stormwater be discharged to an infiltration system, the infiltration area shall be sized for all storm events up to the 1 in 20 year storm event with provision for a formal overland flow path to Council's Street drainage system.

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

48. 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.
49. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.
50. The maximum depth of ponding in above ground detention areas (and/or infiltration systems with above ground storage) shall be as follows:
- a) 150mm in uncovered carparking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area).

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

Notes:

- It is noted that above ground storage will not be permitted in basement car parks or in any area which may be used for storage of goods.
- Mulch/bark must not be used in onsite detention areas.

51. The stormwater detention area (and/or infiltration systems with above ground storage) must be suitably signposted where required, warning people of the maximum flood level.
52. The floor level of all habitable and storage areas adjacent to the detention area (and/or infiltration systems with above ground storage) must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be constructed.

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

53. A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
54. A 'V' drain is to be constructed along the perimeter of the property, where required, to direct all stormwater to the detention/infiltration area.
55. 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.

56. 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, double brick or equivalent.
- A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen located over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system provided for the access grate.
- A sign adjacent to the pit stating:  
  
"This sediment/silt arrester pit shall be regularly inspected and cleaned."

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

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

Notes:

- a. The "restriction as to user" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
  - b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
58. Prior to the issuing of an occupation certificate, the applicant shall submit to Council, a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced Hydraulic Engineer. The works-as-executed drainage plan shall be to the satisfaction of the Principal Certifying Authority (PCA) and shall include the following details:
- a) The location of the detention basin with finished surface levels;
  - b) Finished site contours at 0.2 metre intervals;
  - c) Volume of storage available in the detention areas;
  - d) The location, diameter, gradient and material (i.e PVC, RC etc) of all stormwater pipes;
  - e) The orifice size(s) (if applicable);
  - f) Details of any infiltration/absorption systems; and
  - g) Details of any pumping systems installed (including wet well volumes).
59. 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 to the satisfaction of the PCA.

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

60. As the Landscaping Plan and Landscape Details by Development Design Pty Ltd, sheets 5.01 – 02, issue B, dated 20.12.10, are unsatisfactory in terms of both the level of detail and quality of treatment being proposed for a development of this size and type, **prior to the issue of a Construction Certificate**, a landscape plan that has been prepared by a qualified professional in the Landscape/Horticultural industry (must be a registered member of either AILD or AILA) shall be submitted to, and be approved by, the Certifying Authority, and must include the following:
- a) A Planting Plan & Plant Schedule which includes proposed species, botanic and common names, pot size at the time of planting, quantity, location, dimensions at maturity, maintenance practices (hedging, shaping etc), as well as any other landscape details to describe the proposed works;
  - b) A predominance of species that can withstand poor quality sandy soils, and are not dependant on high quantities of water and fertilisers for survival;
  - c) Suitably decorative feature/accent species within those garden beds on either side of both pedestrian entry paths, as well as both driveways (along the northern and southern boundaries), the lower ground private courtyards and those raised planters shown on the first floor;
  - d) At least 1 x 100 litre (pot/bag size at the time of planting) feature tree, which will attain a minimum of between 4-7 metres in height at maturity, in each of those larger garden areas adjacent both driveways;
  - e) Provision of 1 metre wide, deep soil garden beds in the rear yards of both proposed dwellings, along the length of their western boundaries, to which a continuous evergreen hedge shall be planted, using a species which will attain a minimum height of 2 metres at maturity.
  - f) All planter boxes and garden beds constructed on slab must have a minimum soil depth of 600mm.
61. The PCA must ensure that the landscaping is installed in accordance with the approved documentation and relevant conditions of consent, prior to the issue of a Final (or any type of Interim) Occupation Certificate/s, with the owner to ensure it is maintained in a healthy and vigorous state until maturity.
62. The nature-strip upon Council's footway 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.

**Street Tree**

63. Approval is granted for the applicant to remove and dispose of (at their own cost) the existing *Ulmus parvifolia* (Chinese Weeping Elm), on Council's Tunstall Avenue nature strip, centrally across the width of the site, during excavations associated with the southern most proposed vehicle crossing as shown, and must satisfy themselves as to the location of all site services prior to the

commencement of any works on public property.

64. The applicant shall submit a total payment of **\$250.00** (including GST) to Council, being to reimburse Council for the cost of originally planting this street tree which only needs to be removed in order to accommodate the proposed works, as well as to cover the costs or Council to supply and install 1 x 25 litre replacement of the same species, in between both crossings at the completion of all works.

The contribution shall be paid into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre **prior to a Construction Certificate being issued for the development.**

**The applicant shall contact Council's Landscape Development Officer on 9399-0613 (quoting the receipt number), and giving at least four working weeks notice to arrange for planting of the replacement street tree upon completion of all site works.**

### Tree Removals

65. Approval is granted for removal of the following trees, subject to full implementation of the approved landscape plan:
- a) The *Koelreuteria paniculata* (Golden Rain Tree), located centrally in the front yard, halfway across the eastern boundary, in order to accommodate the new entry paths, gardens and re-grading as shown;
  - b) The *Howea fosteriana* (Kentia Palm) immediately to its southwest, for the same reasons outlined above;
  - c) The *Schefflera actinophylla* (Umbrella) in the rear yard, between the northern wall of the existing brick studio and northern site boundary, due to being an environmental weed,
  - d) The *Michelia figo* (Port Wine Magnolia) to its west, due to its close proximity to the northwest corner of the existing dwelling as well to accommodate the new dwelling as shown.

### Pruning of neighbouring tree

66. Permission is granted for the selective pruning of only the following:
- i. Those lowest growing branches from the northern aspect of the dead *Melaleuca armillaris* (Bracelet Honey Myrtle) located adjacent the southeast corner of the site, within the Australian Golf Course, where necessary for clearance reasons;
  - ii. Still on the Golf Course, to the west of the tree described above, about halfway along the length of the southern boundary, those branches from the northern aspect of the *Citharexylum spinosum* (Fiddlewood), where necessary in order to avoid damage to the tree during the course of either demolition or construction.
67. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of this tree, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
68. All pruning must be undertaken by an Arborist who holds a minimum of AQF



Level V in Arboriculture, and to the requirements of Australian Standard AS 4373-1996 'Pruning of Amenity Trees.'

### Protection of trees in rear yard

69. In order to ensure retention of both the *Phoenix canariensis* (Canary Island Date Palm), and *Eucalyptus saligna* (Sydney Blue Gum) located in the rear yard, in the southwest corner of the site, in good health, the following measures are to be undertaken:
- a. All documentation submitted for the Construction Certificate application must show the retention of both trees, with the position and diameter of both of their trunks and canopies/crowns to be clearly shown on all drawings.
  - b. The existing ground level, for a radius of **2.5 metres** off both of their trunks (measured off their outside edge at ground level) must be maintained. The existing informal rock wall that runs in a northeast-southwest direction across the rear of the site should be retained in this area and incorporated into the works in order to assist with this requirement.
  - c. The southern edge of the pool shown in an east-west direction along the northern boundary of proposed dwelling no.148, shall be setback a minimum distance of **3.5 metres** off the trunk of the Palm, with the absorption trench to be slightly relocated further to the east, so that no excavations will occur within **2.5 metres** of its trunk.
  - d. Any excavations associated with the installation of any other new services, pipes, stormwater systems or similar in the rear yard of proposed dwelling 148 must be setback a minimum distance of **3.5 metres** off their trunks, so as to both minimise root damage and future maintenance issues.
  - e. Any new common boundary fencing along either the southern site boundary, or; that portion of the western boundary, to the south of the existing brick boundary wall, must be a type which requires localised pad footings only, with no excavations for continuous strip footings associated with a masonry wall/fence permitted.
  - f. Both trees are to be physically protected as one group by installing 1.8 metre high steel mesh/chainwire fencing, which shall be setback a distance of **2 metres** to the north and east of the Palm (measured off the outside edge of its trunk at ground level), matching up with the western and southern boundaries, so as to completely enclose them for the duration of works.
  - g. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
  - h. Within the TPZ, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, and in order to prevent soil/sediment being washed into the TPZ, and over their root systems, suitable erosion control measures shall be provided around the perimeter of the TPZ, with all Site Management Plans

needing to acknowledge these requirements.

- i. Any roots encountered during the course of the approved works must be cut cleanly by hand, and the affected area backfilled with clean site soil as soon as practically possible.

### **Protection of neighbouring trees**

70. In order to also ensure retention of those trees growing on the neighbouring Australian Golf Course grounds, being a *Citharexylum spinosum* (Fiddlewood) beyond the western site boundary, near the northwest corner of the site, as well as a smaller *Eucalyptus saligna* (Sydney Blue Gum) to its east, beyond the southwest corner of the site, and then to the east, a *Citharexylum spinosum* (Fiddlewood) in good health,

- a. Any new common fencing along either the southern or western site boundaries must be a type which requires the use of localised pad footings only, with no continuous strip footings, new masonry walls or changes in level of more than 200mm to be undertaken.
- b. There is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble beneath the extent of the driplines of these neighbouring trees, with sediment controls to be provided so as to prevent run-off towards the trees, with all Site Management Plans needing to acknowledge these requirements.
- c. Any roots encountered during the course of the approved works must be cut cleanly by hand and the affected area backfilled with clean site soil as soon as practically possible.

### **Advisory Conditions**

1. 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/Procopiadis) CARRIED UNANIMOUSLY - SEE RESOLUTION.**

### **CP24/11 Director City Planning Report - Reporting Variation to Development Standard under State Environment Planning Policy No. 1 (SEPP 1) for the Month of March, 2011 (F2008/00122)**

86/11 **RESOLUTION: (Andrews/Procopiadis)** that the report be received and noted.

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

### **CP25/11 Director City Planning Report - Randwick City Landscape Elements (F2008/00371)**

87/11 **RESOLUTION: (Notley-Smith/Woodsmith)** that Council:

- a) endorse the inclusion of the 16 landscape elements in the Draft Comprehensive LEP as individual heritage items; and
- b) note that Landscape Element Guidelines should be prepared for inclusion in the

Comprehensive Development Control Plan.

**MOTION: (Notley-Smith/Woodsmith) CARRIED UNANIMOUSLY – SEE RESOLUTION.**

Note: Cr Andrews was absent from the meeting during the voting on the above resolution.

**AMENDMENT: (Andrews/Nil)** that this matter be deferred to allow Councillors to view all sites which are proposed to be subject to the Draft Comprehensive LEP.  
**LAPSED FOR WANT OF A SECONDER.**

**AMENDMENT: (Bowen/White)** that Council:

- a) endorse the inclusion of 12 of the 16 landscape elements in the Draft Comprehensive LEP as individual heritage items;
- b) the walls in Abbot Street, Alison Road, Prince Edward Street and Cooper Street not be included in the Draft Comprehensive LEP as individual heritage items; and
- c) note that Landscape Element Guidelines should be prepared for inclusion in the Comprehensive Development Control Plan. **LOST.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Andrews	Councillor Belleli
Councillor Bowen	Councillor Hughes
Councillor Seng	Councillor Matson
Councillor Stevenson	Councillor Matthews
Councillor White	Councillor Nash
	Councillor Notley-Smith
	Councillor Procopiadis
	Councillor Smith
	Councillor Woodsmith
<b>Total (5)</b>	<b>Total (9)</b>

**CP26/11 Director City Planning Report - Draft Final Plan of Management of Prince Henry Centre (F2010/00298)**

88/11

**RESOLUTION: (Belleli/Matthews)** that Council:

- a) endorse the Prince Henry Centre Plan of Management for finalisation;
- b) agree that the Director City Planning may make minor modifications to rectify any numerical, typographical, interpretation and formatting errors as required in finalising the Plan of Management;
- c) request that a report be brought back to Council addressing the option for all our community centres to have a fast track no charge booking procedure being implemented whereby individuals can book the use of a Centre without the need to go through the formal application process;
- d) request that the abovementioned report also separately address the option for all our community centres to have a fast track no charge booking procedure being implemented whereby non profit community groups can book the use of a

- Centre without the need to go through the usual formal application process;
- e) should the above booking procedures be adopted, delegate authority to the General Manager to implement the scheme for a six month trial period with a further report on its success to come back to Council for final approval;
  - f) should the above procedure be adopted, an appropriate number of tables and chairs be provided for use by both individuals and non profit community groups at each of our Centres; and
  - g) advertise Council's hiring policy for our Community Centres out in our local community via the Mayoral column, Council's website, Precinct Committees and any other appropriate means.

**MOTION: (Belleli/Matthews): CARRIED SEE RESOLUTION.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Belleli	Councillor Andrews
Councillor Bowen	Councillor Hughes
Councillor Matthews	Councillor Matson
Councillor Nash	Councillor Procopiadis
Councillor Notley-Smith	Councillor Seng
Councillor Stevenson	Councillor Smith
Councillor White	
Councillor Woodsmith	
<b>Total (8)</b>	<b>Total (6)</b>

## General Manager's Reports

### **GM4/11 General Manager's Report - Email and/or Online Alert Service (F2008/00544)**

89/11

**RESOLUTION: (Andrews/Procopiadis)** that:

- a) Council develop and implement a weekly, non-political email newsletter for local residents about Council events, services, projects and decisions; and that a report on its operation be brought back to Council six months after commencement; and
- b) further information be provided to Councillors on other e-news communication channels like Facebook and Twitter.

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

### **GM5/11 General Manager's Report - Recruitment and Selection Policy (F2004/06949)**

90/11

**RESOLUTION: (Andrews/Procopiadis)** that the amended Recruitment and Selection Policy be adopted.

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

### **GM6/11 General Manager's Report - Draft Randwick City Council**

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**Operational Plan 2011-12 (F2011/00035)**

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91/11 **RESOLUTION: (Andrews/Nash)** that:

- a) the Draft Randwick City Council 2011-12 Operational Plan, which includes the 2011-12 Budget and associated Fees and Charges, and attachments as outlined below, be placed on public exhibition for not less than 28 days, from 3<sup>rd</sup> May to 31<sup>st</sup> May, 2011 inviting submissions from the public;
- b) at the conclusion of the period of public exhibition a meeting of the Council is held to consider any submissions made concerning the Draft Plan, and after taking into consideration such matters as it considers relevant, the Council adopt the Operational Plan;
- c) in accordance with the NSW Department of Local Government Code of Accounting Practice and Financial Reporting (June 2009) Note 2(b), in respect to each broad function of council, expenses that can be reliably attributed have been allocated to that function; and
- d) the General Manager be authorised to make any minor changes if required.

**MOTION: (Andrews/Nash) CARRIED - SEE RESOLUTION.**

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**GM7/11 General Manager's Report - 2011 National General Assembly of Local Government (F2004/06670)**

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92/11 **RESOLUTION: (Andrews/Procopiadis)** that any Councillors interested in attending the 2011 National General Assembly of Local Government in Canberra, advise the General Manager as soon as possible for registration purposes.

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

### **Director City Services Reports**

Nil.

### **Director Governance & Financial Services Reports**

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**GF8/11 Director Governance & Financial Services Report - Investment Report - March 2011 (F2004/06527)**

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93/11 **RESOLUTION: (Smith/Procopiadis)** that the investment report for March 2011 be received and noted.

**MOTION: (Smith/Procopiadis) CARRIED - SEE RESOLUTION.**

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**GF9/11 Director Governance & Financial Services Report - Acquisition of Land to be Incorporated into Arthur Byrne Reserve, Maroubra Beach (F2004/07131)**

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94/11 **RESOLUTION: (Andrews/Nash)** that Council:

- a) Approves the acquisition of Lot 121 in DP 1013114 by compulsory process in accordance with Sections 186 and 187 of the *Local Government Act 1993 (NSW)*;
- b) Approves the making of an application to the Minister for Local Government for

the issue of a proposed acquisition notice under the Acquisition Act with respect to Lot 121 in DP 1013114;

- c) Approves the making of an application to the Governor for the publication of an acquisition notice in the Government Gazette under the Acquisition Act with respect to Lot 121 in DP 1013114; and
- d) Classifies Lot 121 in DP 1013114 as "community land" under the Local Government Act.

**MOTION: (Andrews/Nash) CARRIED - SEE RESOLUTION.**

**GF10/11 Director Governance & Financial Services Report - Annual Review  
of Councillors' Expenses & Facilities Policy (F2004/06576)**

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95/11

**RESOLUTION: (Andrews/Nash)** that the amended Councillors' Expenses and Facilities Policy be publicly exhibited for a period of 28 days.

**MOTION: (Andrews/Nash) CARRIED - SEE RESOLUTION.**

### Petitions

Nil.

### Motion Pursuant to Notice

**NM14/11 Motion Pursuant to Notice - Notice of Motion by Cr Bowen - Bronte  
Coogee Aquatic Reserve (F2005/00036)**

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96/11

**RESOLUTION: (Bowen/White)** that:

- a) Randwick City Council affirm its commitment to the retention of all Aquatic Reserves in Randwick City;
- b) the Mayor write to the Minister for Primary Industries to request an assurance that there be no winding back of all the Aquatic Reserves in the Randwick City area; and
- c) the Member for Coogee pursue the retention of all aquatic reserves in the City of Randwick.

**MOTION: (Bowen/White) CARRIED - SEE RESOLUTION.**

### Confidential Reports

The meeting moved into closed session in order to consider confidential items.

### Closed Session

**CP27/11 Confidential - 169-181 Dolphin Street, Coogee (Aquarium Level)  
(DA/649/2010)**

*This matter is considered to be confidential under Section 10A(2) (e) Of the Local Government Act, as it deals with information that would, if disclosed, prejudice the maintenance of law.*

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Having previously declared an interest in this item, Cr Smith left the chamber taking no part in the debate or voting on this matter.

97/11 **RESOLUTION: (Andrews/Procopiadis)** that Council continue to defend the Class 1 appeal in relation to the Beach Palace Hotel.

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

**CS4/11 Confidential - T04/11 – Coogee Surf Club Project – Alterations and Additions (F2011/00070)**

*This matter is considered to be confidential under Section 10A(2) (c) Of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

98/11 **RESOLUTION: (Andrews/Procopiadis)** that Council:

- a) accepts the tender offered by Patterson Building Group Pty Ltd at a lump sum price of \$254,384.00 to carry out the Coogee Surf Club Project, Alterations and Additions;
- b) delegates authority to the General Manager to sign a contract with Patterson Building Group Pty Ltd to carry out the work;
- c) notifies the unsuccessful tenderers accordingly; and
- d) funds the \$99,384.00 shortfall, due to the unsuccessful grant bid, from the Infrastructure Reserve.

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

**GF11/11 Confidential - T02/11 - Tender for Catering Services (F2010/00209)**

*This matter is considered to be confidential under Section 10A(2) (c) Of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

99/11 **RESOLUTION: (Andrews/Procopiadis)** that Council:

- a) Accepts Toast Food Pty Ltd and Hestelow & Bye Pty Ltd (trading as Hestelow James Catering) as the successful tenderers to provide Catering Services to the Council, subject to completion of a three month trial period to Council's satisfaction;
- b) Accepts About Life Pty Ltd and Alors Holdings Pty Ltd (trading As Simone Logue Fine Food Company) as shortlisted tenderers to provide Catering Services to the Council, in the event Toast Food Pty Ltd or Hestelow & Bye Pty Ltd (trading as Hestelow James Catering) are removed from this contract;
- c) Authorises the General Manager to sign the contract documents on behalf of Council for a three (3) year term with an option to extend for two (2) further terms of twelve months each; and
- d) Notifies the unsuccessful tenderers.

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

**GF12/11 Confidential - SSROC Tender for Agricultural Products (F2011/00155)**

*This matter is considered to be confidential under Section 10A(2) (c) Of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

100/11 **RESOLUTION: (Andrews/Procopiadis)** that:

- a) under Regulation 178(1)(a) of the Local Government (General) Regulation 2005, Globe Australia Pty Ltd be accepted as the successful tenderer; and
- b) the General Manager, or delegated representative, be authorised to enter into a preferred supplier agreement with Globe Australia Pty Ltd for a period of three (3) years, with one (1) optional one (1) year extension.

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

**GF13/11 Confidential - Draft Randwick City Council Operational Plan 2011/12: Confidential Fees and Charges (F2010/00249)**

*This matter is considered to be confidential under Section 10A(2) (d) Of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.*

101/11 **RESOLUTION: (Woodsmith/Hughes)** that the Draft Confidential Fees and Charges 2011-12 be noted.

**MOTION: (Woodsmith/Hughes) CARRIED - SEE RESOLUTION.**

**Open Session**

The meeting moved back into open session.

**Notice of Rescission Motions**

Note: A rescission motion in relation to item CP22/11 (21 Storey Street Maroubra) was submitted in accordance with Council's Code of Meeting Practice, by Councillors Andrews, Nash and Seng, and will be considered at the next ordinary Council Meeting to be held on 24<sup>th</sup> May, 2011.

There being no further business, His Worship the Mayor, Cr M Matson, declared the meeting closed at 9.52 pm.

**The minutes of this meeting were confirmed at the Ordinary Meeting of the Council of the City of Randwick held on Tuesday, 24 May 2011.**

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**CHAIRPERSON**