

PLANNING COMMITTEE MEETING

**DEVELOPMENT APPLICATION
COMPLIANCE REPORTS**

TUESDAY, 8 APRIL, 2014

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Development Application Compliance Report



Folder /DA No:	DA/147/2010/B
PROPERTY:	62 Market Street, RANDWICK NSW 2031
Proposal:	Section 96 modification of the approved development by deletion of condition 4 relating to screen planting adjacent to southern boundary
Recommendation:	Approval

1. Section 96 Assessment

Section 96 of the Environmental Planning and Assessment Act 1979, states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The proposal does not involve any significant changes to the approved built form, floor space ratio or use of the site. Therefore, in accordance with Section 96 of the Environmental Planning and Assessment Act 1979, the proposed modification to the approved development is considered to result in a development that is substantially the same as the originally approved development. As such, it can be assessed under Section 96 of the Act.

2. State Environmental Planning Policies

No State Environmental Planning Policies are relevant to the proposal.

3. Relevant Environment Planning Instruments:

Randwick LEP 2012

The subject site is zoned R2 Low Density Residential under Randwick LEP 2012 and the proposed development is permissible in the zone. The relevant zoning objectives are addressed as follows:

- To protect the amenity of residents.

The proposed modifications will not unreasonably impact on the amenity of the adjoining residents subject to modified condition number 4. Overall, the proposal is considered to meet the objectives of the R2 Low Density Residential zone as stipulated in the Randwick LEP 2012.

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4. Randwick Comprehensive DCP

C1 Table: Low Density Residential

Randwick Development Control Plan

The DCP provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in the table below. (Note: a number of control provisions that are not related to the proposal have been deliberately omitted.)

DCP Clause	Controls	Proposal	Compliance
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may acceptable be subject to: <ul style="list-style-type: none"> • Degree of meeting the FSR, height, setbacks and site coverage controls. • Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. • Topography of the subject and adjoining allotments. • Location and level of the windows in question. • Shadows cast by existing buildings on the neighbouring allotments. 	A minimum of 3 hours sunlight will be retained to a portion of the north-facing windows of the adjoining dwelling to the south if the initial 5.3m row of trees were clipped and maintained to a maximum height of 4.3m with the remaining section of trees being 5m. This is discussed in further detail in the 'Key Issues' section of the Council Report.	Yes

5. 79C Matters for consideration

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	Refer to 3 'Randwick LEP 2012' section of this report for details.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	There are no provisions of any draft environmental planning instrument applicable to the application.
Section 79C(1)(a)(iii) – Provisions of any development control plan	Refer to the section 4 'Randwick Comprehensive DCP' of this report for details.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	None applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment, which are otherwise not addressed in this report, are discussed in the paragraphs below.</p> <p>The proposed development is consistent with the dominant residential character in the locality. The proposal would not considered result in detrimental social or economic impacts on the locality.</p>
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 79C(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

6. DEVELOPMENT CONSENT CONDITIONS

Amend Condition 4 to read:

4. The proposed screen planting directly adjacent to the southern side boundary at the rear of the dwelling shall be clipped and maintained to a maximum height of:
 - a) **4.3m** for the initial 5.3m section of the screen planting (as measured from the eastern edge of the screen planting); and
 - b) **5m** for the remaining section of the screen planting.

The trees shall be clipped and maintained in accordance with above specified heights at all

times.

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Development Application Compliance Report



Folder /DA No:	DA/96/2014
PROPERTY:	2/90-96 Beach Street, COOGEE NSW 2034
Proposal:	Alterations and additions to Unit 2 including removal of internal walls and extension to the living area (variation to floor space ratio)
Recommendation:	Approval

D39/14

Relevant Environment Planning Instruments:

1. Randwick LEP 2012

The subject site is zoned R3 Medium Residential under the Randwick LEP 2012. The proposed development involves alterations to an existing residential flat building and is permissible in the zone. It is considered that the proposal will be consistent with the zoning objectives given that the proposal will:

- provide for the housing needs of the community within a medium density residential environment;
- recognise and be consistent with the desirable elements of the existing streetscape and the built form of the subject residential flat building; and
- protect the amenity of the occupants of the subject dwelling and those neighbouring the subject dwelling.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.75:1	1.36:1 (no change from existing *)	No
Height of Building (Maximum)	9.5m	No change from existing	N/A
Lot Size (Minimum)	N/A	N/A	N/A

* The maximum floor space ratios for buildings, other than buildings erected for the purpose of a dwelling house, within the R3 Medium Density Residential Zone is 0.75:1. Given that the overall site area is 2,739m², the proposal will not result in any measurable increase in the existing floor space ratio (1.36:1); however the proposal will increase the gross floor area of the development by 10.5m². The applicant submitted a statement pertaining to Clause 4.6 of the RLEP 2012 in relation to the floor space ratio development standard with the application – see Executive Summary Report.

2. Randwick Comprehensive DCP 2013:

2.2 C2 Table: Medium Density Residential:

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The DCP provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in the table below. (Note: a number of control provisions that are not related to the proposal have been deliberately omitted.)

DCP Clause	Control	Proposal	Compliance
C2	Medium Density Residential		
2.2	Landscaped open space and deep soil area		
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (234.7m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	The proposal involves the conversion of a paved area of private open space into internal space for Unit 2 and will not further decrease the deep soil landscaped area of the site.	N/A
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.	The proposal will retain adequate private open space for the occupants of Unit 2. The private open space is directly accessed from within the subject unit.	Yes
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from with the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	A condition is recommended that the planter boxes are to be retained. Despite this, a private open space area will be retained with dimensions of 3.3m x 12m.	Yes
3	Building Envelope		
3.1	Floor space ratio		
	RLEP 2012 standard: 0.75:1	1.36:1	See discussion above – Part 1.1.
3.4	Setbacks		

DCP Clause	Control	Proposal	Compliance
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> - 14m ≤ site frontage width < 16m: 2.5m <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	<p>The proposal will not further reduce existing side setbacks for the residential flat building. Articulation will be retained on the southern side of the subject building in the form of a concrete lip, borrowed from the concrete slab of the unit above Unit 2.</p> <p>N/A</p>	<p>Yes</p>
4	Building Design		
4.1	Building façade		
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</p>		

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DCP Clause	Control	Proposal	Compliance
	(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs.	The building façade will retain a degree of articulation on the southern side as viewed from Arcadia Street. The proposed enclosure of existing private open space will not constitute an undesirable precedent given that no primary architectural features are proposed to be deleted.	Yes
4.7	Apartment layout		
	(i) Maximise opportunities for natural lighting and ventilation through the following measures: <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.	The existing apartment layout is to be modified however natural light will not be decreased as a result of the proposed works.	Yes
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	The revised apartment configuration will accommodate flexible patterns of furniture arrangements.	Yes
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Private open space will be retained for the occupants of the subject dwelling.	Yes
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	The proposal involves the demolition of an internal dividing wall that separates the entry way with the open plan kitchen/dining area. Despite this, the circulation space	Yes

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DCP Clause	Control	Proposal	Compliance
		within the subject unit will be made larger, leaving an increased area for the open plan kitchen/dining area. The entry way is physically separated from the kitchen by a bench and overall, will not interfere with the effective use of the kitchen.	
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	The private open space for the subject unit faces south however the proposed works will not impose any additional impacts on the subject unit or neighbouring dwellings with regard to solar access and overshadowing.	Yes
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	The proposed works will not impose any additional impacts on the subject unit or neighbouring dwellings with regard to natural light or cross ventilation.	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	A concrete lip will be retained by sighting the window behind the southern edge of a concrete slab for the balcony servicing the unit above the subject unit.	Yes
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	Complies.	Yes
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining	The proposed works will not impose any significant impacts on neighbouring	Yes

DCP Clause	Control	Proposal	Compliance
	dwellings. (ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences. (iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance. (iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy. (v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	dwellings with regard to visual and acoustic privacy.	
5.5	View sharing		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings.	The proposal will not interfere with any significant views across the subject site.	Yes
5.6	Safety and security		
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of	The proposed works will maintain and enhance opportunities for casual surveillance over Arcadia Street.	Yes

DCP Clause	Control	Proposal	Compliance
	common areas, lobbies / foyers, hallways, open space and car parks.		
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Conditioned to comply.	

3. 79C Matters for consideration

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	<p>Randwick Local Environmental Plan 2012</p> <p>The site is zoned Residential R3 under the Randwick Local Environmental Plan 2012 and the proposal is permissible with Council's consent.</p> <p>The proposal will exceed the development standard for floor space ratio however the applicant has provided justification as to why the proposed excess is reasonable in the current circumstances. The proposal will not further increase the building height and overall, the development is considered to be consistent with the aims of RLEP 2012 and the specific objectives of the zone. The proposed activity and built form will enhance and compliment the aesthetic character, environmental qualities and social amenity of the locality.</p> <p>Clause 5.10 Heritage conservation</p> <p>The proposal is for minor works within the confines of the subject site. The works will not be readily visible from surrounding dwellings and from the streetscape and will not impose any significant impacts on the heritage values of neighbouring heritage items. The proposal was not required to be referred to Council's Heritage Planner.</p>
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and planning controls specified by the Randwick Comprehensive Development Control Plan, except where discussed in the key issues section of this report.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.

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Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment, which are otherwise not addressed in this report, are discussed in the paragraphs below.</p> <p>The proposed development is consistent with the dominant residential character in the locality. The proposal is not considered to result in detrimental social or economic impacts on the locality.</p>
Section 79C(1)(c) – The suitability of the site for the development	The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received regarding the application.
Section 79C(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

4. Referral Comments:

No referrals were required.

5. DEVELOPMENT CONSENT CONDITIONS:

GENERAL CONDITIONS
The development must be carried out in accordance with the following conditions of consent.
These conditions have been applied to satisfy the relevant requirements of the <i>Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000</i> and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- 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:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
DA0000 (Revision A)	Allen Jack and Cottier	27 February 2014	28 February 2014
DA2101 (Revision A)			
DA2900 (Revision A)			

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received by Council</i>
A177746	25 February 2014	28 February 2014

Amendment of Plans & Documentation

2. The existing planter boxes on the southern and south-eastern edges of the private open space for Unit 2 are to be retained. Plans are to be amended to reflect this requirement, prior to the issue of a construction certificate.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

3. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.

Long Service Levy

4. Any 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, 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.

Sydney Water Requirements

5. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to a Sydney Water Quick Check agent, to determine whether the development will affect Sydney Water's waste water 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 details please refer to the Sydney Water web site at www.sydneywater.com.au for:

- Quick Check agents details - see *Building and Developing* then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see *Building and Developing* then *Building and Renovating*, or telephone 13 20 92.

The Principal Certifying Authority must ensure that a Sydney Water Quick Check Agent has appropriately stamped the plans prior to issuing the construction certificate.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

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These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Building Code of Australia & Fire Safety

6. 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). Details of compliance are to be provided in the construction certificate.
7. In existing buildings, the following works are to be carried out to ensure minimum levels of fire safety (as applicable) to the satisfaction of the Certifying Authority:
 - Any new or replacement ceilings walls and floor linings and doorways are required to satisfy the relevant requirements of the Building Code of Australia.
 - Any residential parts of the building must be provided with a smoke detection and alarm system, in accordance with the relevant provisions of the Building Code of Australia.
 - Any residential part/s of the building are to be suitably fire-separated from the commercial area encompassed in this development application.

Details of the abovementioned items and other building and fire safety works are to be included in the construction certificate.

BASIX Requirements

8. 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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifying Authority' (PCA), as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

Certification, PCA & other Regulatory Requirements

9. 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.

- a) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- b) 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
- c) at least two days notice must be given to the Council, in writing, prior to commencing any works; and
- d) the relevant requirements of the *Home Building Act 1989* (as applicable) must be complied with and details provided to the Principal Certifying Authority and Council.

Home Building Act 1989

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

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

Dilapidation Reports

11. 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 terraced dwellings),
 - 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.

Construction Noise & Vibration Management Plan

12. 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 EPA Guidelines must be satisfied at all times.

Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

A *Construction Noise Management Plan*, prepared in accordance with the NSW EPA Construction Noise Guideline by a suitably qualified person, is to be implemented throughout the works. A copy of the strategy must be provided to the Principal Certifying Authority and Council prior to the commencement of works on site.

Construction Site Management Plan

13. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction 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;
- provisions for temporary stormwater drainage;
- construction noise and vibration management;
- construction traffic management details.

The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works, to the satisfaction of Council.

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Inspections During Construction

14. The building works must be inspected by the *Principal Certifying Authority*, 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.

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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).

Permitted Working Hours

15. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises	<ul style="list-style-type: none"> • Monday to Saturday - No time limits (subject to column 1) • Sunday & public holidays - No work permitted

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Construction Site Management, Public Health & Safety

16. Public health, safety and convenience must be maintained at all times during demolition and building works and the following requirements must be complied with at all times (as applicable):

- a) Demolition work must be carried out in accordance with Australian Standard, AS2601 (2001) - The Demolition of Structures and a Demolition Work Plan is required to developed and implemented to the satisfaction of the Principal Certifying Authority prior to commencing any demolition works.
- b) The demolition, removal, storage and disposal of any materials containing asbestos must be carried out in accordance with the relevant requirements of WorkCover NSW, Council's Asbestos Policy and the following requirements:
 - A licence must be obtained from WorkCover NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro)
 - Asbestos waste must be disposed of in accordance with the *Protection of the Environment Operations Act 1997* & relevant Regulations
 - A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress"
 - A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist) upon completion of the asbestos removal works, which is to be submitted to the Principal Certifying Authority and Council prior to issuing an Occupation Certificate.

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

- c) A sign must be provided and maintained in a prominent position throughout 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*,
 - a statement stating that "unauthorised entry to the work site is prohibited".
- d) The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, trip hazards, 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.
- e) 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. For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.
- f) Building materials, sand, soil, waste materials, construction equipment or other materials or articles 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.
- g) Bulk bins, waste containers or other articles 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 or other articles in a public place can be made to Council's Health, Building & Regulatory Services department.
- h) During demolition and construction, 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 Landcom, to the satisfaction of Council.
- i) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.
- If it is proposed to locate any site fencing, hoardings or items upon any part of the footpath, nature strip or any public place, a Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services department beforehand. Details and plans are to be submitted with the application, together with payment of the weekly charge in accordance with Council's adopted Pricing Policy.*
- j) 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.

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The requirements and practices contained in the *Protection of the Environment Operations Act 1997* and relevant DECC Construction Noise and Vibration Guidelines are to be satisfied and a Construction Noise and Vibration Management Plan is to be developed and implemented throughout the works to the satisfaction of Council.

Site Signage

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, or *owner-builder* permit details (as applicable)
 - name, address and telephone number of the *Principal Certifying Authority*,
 - a statement stating that "unauthorised entry to the work site is prohibited".

Demolition Work Requirements

18. The propose works 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 & Water and Randwick City Council policies, including:

- Work Health & Safety Act 2011 and Regulations
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- WorkCover NSW Guidelines and Codes of Practice
- Australian Standard 2601 (2001) – Demolition of Structures
- The Protection of the Environment Operations Act 1997 and Regulations
- Relevant EPA Guidelines
- Randwick City Council Asbestos Policy

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

Sediment & Erosion Control

19. Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to Council's satisfaction. Details are to be included in the *Construction Site Management Plan*.

Public Safety & Site Management

20. 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) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.

Temporary site fences are required to be constructed of cyclone wire fencing material and be structurally adequate, safe and constructed in a professional manner. The use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

- b) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- c) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip

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- hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- d) 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.
 - e) Sediment and erosion control measures, must be implemented throughout the site works in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom, to Council's satisfaction.
 - f) Site fencing, building materials, bulk bins/waste containers and other articles 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 department.
 - g) Temporary safety fencing is to be provided to any swimming pools under construction, pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.

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REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

21. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The relevant requirements of the *Environmental Planning & Assessment Act 1979* and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

Fire Safety Certificate Requirements

22. Prior to issuing an interim or final Occupation Certificate, a single and complete Fire Safety Certificate, encompassing all of the essential fire safety measures contained in the fire safety schedule must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The Fire Safety Certificate must be consistent with the Fire Safety Schedule which forms part of the Construction Certificate.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy of the *Fire Safety Certificate* and *Fire Safety Schedule* must also be forwarded to Fire & Rescue NSW.

BASIX Requirements

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

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

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Noise Emissions

24. The operation of the premises and all plant and equipment must not give rise to an environmental health or public nuisance or, result in an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the use and operation of the premises (including all plant and equipment) shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB (A) in accordance with relevant NSW Office of Environment & Heritage/Environmental Protection Authority Noise Control Guidelines.

Fire Safety Statements

25. A single and complete Fire Safety Statement (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the Environmental Planning & Assessment Regulation 2000.

The *Fire Safety Statement* must be provided on an annual basis, each year following the issue of the *Fire Safety Certificate* and other period if any of the fire safety measures are identified as a *critical fire safety measure* in the *Fire Safety Schedule*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a properly qualified person and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

External Lighting

26. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and Council's policies. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

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- A1 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 requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$1,500) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 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.

- A3 Building 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.

- A4 Council's Building Certification & Fire Safety team can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent, relevant building regulations and standards of construction. For further details contact Council on 9399 0944.

- A5 A Local Approval application must be submitted to and be approved by Council 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 or any other container or article.

For further information please contact Council on 9399 0944.

- A6 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.

- A7 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

- A8 This consent 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 land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- 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).

- A9 Smoke alarms are required to be installed in all residential dwellings, in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979* and the Building Code of Australia. Details should be included in the construction certificate application.
- A10 Any external lighting to the premises should be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
- A11 Building owners and occupiers should consider implementing appropriate measures to prevent children from falling from high-level window openings and balconies (e.g. by installing window locking devices; installing heavy-duty screens to window openings; limiting the dimensions of any openings to 125mm; ensuring balustrades to balconies are at least 1m high and; locating fixtures, fittings and furniture away from high-level windows and balconies). For further information about preventing falls from windows and balconies refer to www.health.nsw.gov.au/childsafety or pick-up a brochure from Council's Customer Service Centre.
- A12 In existing buildings, the levels of fire and occupant safety should be upgraded where necessary and details should be incorporated in the Construction Certificate to the satisfaction of the Certifying authority.

Where the levels of accessibility to existing buildings do not meet current standards, if practicable, the level of accessibility should also be upgraded in conjunction with the proposed development (e.g. via the installation of a 1:8 access ramp within the building) and details included in the construction certificate application.

Building owners, applicants and builders are advised to speak to the appointed Certifying Authority prior to lodgement of the Construction Certificate.

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Development Application Compliance Report



Folder /DA No:	DA/95/2014
PROPERTY:	146 Anzac Parade, KENSINGTON NSW 2033
Proposal:	Change of use and fit out as a Traditional Thai Massage premises
Recommendation:	Approval

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1. Relevant Environment Planning Instruments:

The subject site is zoned B2 Local Centre under the Randwick LEP 2012. The proposed development is classified as a commercial premises and is permissible in the zone.

The proposal will be consistent with the zoning objectives in that:

- The development will provide a business that serves the needs of people who live in, work in and visit the local area and which will encourage employment opportunities within the local area;
- The subject site is well served by public transport;
- It is considered that the development will integrate with, and supports the primary business function of the zone; and
- Suitable conditions are recommended to ensure that the development will not impose any significant impacts on the amenity of residents in the zone and in adjoining and nearby residential zones; as well as to facilitate a safe public domain.

The proposal involves the use of commercial premises within an established commercial centre known as the Kensington Town Centre; and will not increase the floor space ratio or building height of the subject building.

2. Randwick Comprehensive DCP:

The DCP provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

Kensington Town Centre:

The subject application involves the fitout and use of an existing commercial tenancy and the replacement of existing business identification signage. There is only one off-street parking space within the premises, which, due to its location at the rear of the premises, is not to be made available for customers. However the locality is serviced by ample on-street parking (excluding clear ways) and regular public transport. Consequently, the development is considered to satisfy the stated aims and objectives of the DCP; and it is considered that the proposal will not have any significant impacts on neighbouring dwellings or the locality as a whole.

Outdoor Advertising:

The Statement of Environmental Effects details that an existing under awning lightbox is to be refitted with the new name of the business. The statement also details that an existing over-awning sign is to be changed to reflect the name of the business - 'Sook Sabai' (see Figure 1 below).

Whilst business identification signs above awnings are not supported by the RCDCP 2013, it is noted that the subject premises is unique to the area in that the awning has been removed from the shop front. The above awning sign is existing and does not dominate or obscure any architectural features of the subject building. It is considered that the replacement of the existing signage will not set an undesirable precedent for similar signage in the locality given that there are other examples of similar signage within close proximity to the subject premises.

Overall, it is considered that the proposed business identification signage will be consistent with the objectives and planning controls of the RCDCP 2013. The signage relates directly to the dimensions of the building and will not impose any significant impacts on the visual amenity and desired character of the Anzac Parade streetscape.

It is noted that the scale and type of the business identification signage alerts potential clients to the exact nature of the services to be provided and is displayed at the entrance to the premises. The business premises is directly accessed from Anzac Parade rather than from a side street or side entrance. Suitable conditions have been included to ensure that the business identification signage does not flash or cause a nuisance to nearby residents or motorists; and to ensure that light overspill does not affect the amenity of the area.



Figure 1: Existing business identification signage which is to be replaced with the name of the new business.

Nature of the Use:

Massage will be carried out in the four treatment rooms by a maximum of 3 staff. The treatment rooms are fitted with curtains rather than solid doors however conditions are recommended to ensure that no services of a sexual nature are to be provided.

Hours of Operation:

The proposed hours of operation are Monday to Sunday: 9:00am – 9:00pm. It is considered that the scale of the proposal and the proposed hours of operation will not impose any significant impacts on nearby dwellings with regard to noise generation. The proposed trading hours will be consistent with other nearby commercial/retail uses within the locality.

Staff Qualifications:

A copy of the massage therapy qualifications held by the practitioners was provided with the application. A condition of consent has been included that the relevant remedial and therapeutic massage qualifications of all staff are to be submitted to Council so that Council may keep a record of the employees and their relevant qualifications.

Parking:

As noted by Council's Development Engineer (Part 3 below), the premises can provide only one off-street parking space. Nevertheless, the proposal has been assessed against the relevant Objectives and Planning Controls of the RCDPC 2013 and is supported. Council's RCDPC 2013 allows for the provision of parking to be balanced against a number of factors including site and building constraints and the provision of public transport within the locality.

In this case, site constraints are such that additional off-street parking cannot be provided within the rear yard of the premises. It is also noted that there is convenient access to public transport in close proximity to the shop and that there is convenient off-street parking on Anzac Parade (other than when clearways are activated) and on nearby side streets. Furthermore, the proposal will not result in any increase in the gross floor area of the existing commercial premises. Overall it is considered that the proposed development is consistent with the objectives and planning controls of the RCDPC 2013 with regard to off-street parking.

3. Development Engineer Referral Comments:

Parking Comments

Council's DCP-2013 Part B7 does not provide a specific parking rate for Thai massage salons however it is unlikely the total generated parking demand will be able to be provided on site. Only one carspace is currently available at the rear of the site with access from a Right of Way from Ascot Street. This arrangement would be expected to continue with the proposed development and would probably be utilised by staff

There has been varying uses of the premises over the years including a TV repair shop, café and beauty salon and the expected future parking demand would not be dissimilar to these past uses. It is therefore considered the proposed use as a Thai massage salon would not be expected to create an unacceptable or even noticeable increase in parking demand within the surrounding street network.

The site has frontage to Anzac Parade which has frequent bus services between the city and other destinations such as Maroubra Junction and La Perouse. The future light rail route will also pass by the site.

In consideration of the above factors Development Engineering will not object to the proposed change in use in this instance.

4. Site History:

The site has historically been in use for commercial purposes and there are numerous applications relating to the use of the site. The following more recent applications apply to the site:

- DA/521/1999 was approved for the change of use of the premises from a cafe to a beauty salon; and
- DA/93/1997 was approved for the use of an existing shop as a coffee shop serving light meals and byo.

5. 79C Matters for consideration:

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	<p>Randwick Local Environmental Plan 2012 The site is zoned B2 Local Centre under the Randwick Local Environmental Plan 2012 and the proposal is permissible with Council's consent. The proposal will not further increase the approved floor space ratio or building height of the subject premises and is consistent with the aims of RLEP 2012 and the specific objectives of the zone. The proposed activity and built form will enhance and compliment the aesthetic character, environmental qualities and social amenity of the locality.</p>
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and planning controls specified by the Randwick Comprehensive Development Control Plan, except where discussed in the key issues section of this report.
Section 79C(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment, which are otherwise not addressed in this report, are discussed in the paragraphs below.</p> <p>The proposed development is consistent with the dominant commercial character in the locality. The proposal is not considered to result in detrimental social or economic impacts on the locality.</p>
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received regarding the application.

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Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Section 79C(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

6. DEVELOPMENT CONSENT CONDITIONS

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- 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:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Drawing 1	Building Form Design	7 February 2014	28 February 2014
Drawing 4			
Drawing 5			
Drawing 9			

- No approval is granted for any alterations to the façade of the premises (other than signage changes) or for any outdoor seating for the premises.
- The minimum clear distance from the existing footpath in Anzac Parade to the underside of the under-awning advertising sign, (i.e. the sign to be installed above the footpath in Anzac Parade, shall be 2.60 metres.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a ‘*Construction Certificate*’ is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council’s development consent conditions and to achieve reasonable levels of environmental amenity.

Sydney Water

- All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved plans must be submitted to a Sydney Water Quick Check agent, to determine whether the development will affect Sydney Water’s waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

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If suitable, the plans will be appropriately stamped. For details please refer to the Sydney Water web site at www.sydneywater.com.au for:

- Quick Check agents details - see *Building and Developing* then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see *Building and Development* then *Building and Renovating*, or telephone 13 20 92.

The Principal Certifying Authority must ensure that a Sydney Water Quick Check Agent has appropriately stamped the plans.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Building Code of Australia & Fire Safety

5. 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). Details of compliance are to be provided in the construction certificate.
6. In existing buildings, the following works are to be carried out to ensure minimum levels of fire safety (as applicable) to the satisfaction of the Certifying Authority:
 - Any new or replacement ceilings walls and floor linings and doorways are required to satisfy the relevant requirements of the Building Code of Australia.
 - Any residential parts of the building must be provided with a smoke detection and alarm system, in accordance with the relevant provisions of the Building Code of Australia.
 - Any residential part/s of the building are to be suitably fire-separated from the commercial area encompassed in this development application.

Details of the abovementioned items and other building and fire safety works are to be included in the construction certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the 'Principal Certifying Authority' (PCA), as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

Certification, PCA & other Regulatory Requirements

7. Prior to the commencement of any building works, the following requirements must be complied with:

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- 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) 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
- d) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Public Utilities

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

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Building Inspections

- 9. The works must be inspected by the Principal Certifying Authority, 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.

Permitted Working Hours

- 10. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises	<ul style="list-style-type: none"> • Monday to Saturday - No time limits (subject to column 1) • Sunday & public holidays - No work permitted

An application to vary the abovementioned hours may be submitted to Council’s Manager Health, Building & Regulatory Services for consideration and approval to vary

the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Construction Site Management, Public Health & Safety

11. Public health, safety and convenience must be maintained at all times during demolition and building works and the following requirements must be complied with at all times (as applicable):
- a) A sign must be provided and maintained in a prominent position throughout 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*,
 - a statement stating that "unauthorised entry to the work site is prohibited".
 - b) The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, trip hazards, 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.
 - c) 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. For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.
 - d) Building materials, sand, soil, waste materials, construction equipment or other materials or articles 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.
 - e) Bulk bins, waste containers or other articles 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 or other articles in a public place can be made to Council's Health, Building & Regulatory Services department.
 - f) During construction, 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 Landcom, to the satisfaction of Council.
 - g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

If it is proposed to locate any site fencing, hoardings or items upon any part of the footpath, nature strip or any public place, a Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services

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department beforehand. Details and plans are to be submitted with the application, together with payment of the weekly charge in accordance with Council's adopted Pricing Policy.

- h) 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.

The requirements and practices contained in the *Protection of the Environment Operations Act 1997* and relevant DECC Construction Noise and Vibration Guidelines are to be satisfied and a Construction Noise and Vibration Management Plan is to be developed and implemented throughout the works to the satisfaction of Council.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

Notes: An Occupation Certificate must be obtained from the PCA prior to occupation and use of the premises.

For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

12. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation or use of the development encompassed in this development consent (including alterations, additions and 'fit-out' work to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

Council's Infrastructure, Vehicular Crossings, street verge

13. 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.
14. 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:
- 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.
 - 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 an occupation certificate being issued for the development, together with payment of the relevant fees.
 - 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

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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.

Fire Safety Certificate Requirements

15. Prior to issuing an interim or final Occupation Certificate, a single and complete Fire Safety Certificate, encompassing all of the essential fire safety measures contained in the fire safety schedule must be obtained and be submitted to Council, in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000. The Fire Safety Certificate must be consistent with the Fire Safety Schedule which forms part of the Construction Certificate.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy of the *Fire Safety Certificate* and *Fire Safety Schedule* must also be forwarded to Fire & Rescue NSW.

Waste Management

16. Adequate provisions are to be made within the premises for the storage, collection and disposal of trade/commercial waste and recyclable materials, to the satisfaction of Council.
17. Any trade/commercial waste materials must not be disposed in or through Council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales. Details of the proposed waste collection and disposal service are to be submitted to Council prior to commencing operation of the business.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Noise Emissions

18. The operation of the premises and all plant and equipment must not give rise to an environmental health or public nuisance or, result in an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the use and operation of the premises (including all plant and equipment) shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB (A) in accordance with relevant NSW Office of Environment & Heritage/Environmental Protection Authority Noise Control Guidelines.

19. The owner of the subject site must advise Council in writing of any change in the tenant that is operating the massage shop and advise the new tenant that they must provide Council with the qualifications of all staff involved in providing massage services prior to commencing the new operation.
20. The premises must only be used for the purposes of remedial massage and beauty therapy. The premises must not to be used for the purposes of a brothel and in this

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regard, no sexual services of any kind are to be offered in association with the massage use.

21. The maximum number of employees operating from the subject premises is restricted to 3, and their relevant remedial and therapeutic massage qualifications are to be submitted to and approved by Council's Manager Development Assessment prior to the commencement of the use or when there are new employees.
22. Any other treatments/services other than remedial massage will require a separate application to Council and relevant approval shall be obtained (as required) prior to commencement.
23. The hours of the operation of the business are restricted to:

Monday to Sunday from: 9.00am – 9:00pm.
24. The proposed under awning business identification signage shall be internally illuminated only.
25. The proposed above awning business identification signage must not be illuminated.
26. The intensity of the light in the illuminated sign 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.
27. The proposed signage must not have/use:
 - Flashing lights;
 - Electronically changeable messages;
 - Animated display, moving parts or simulated movement;
 - Complex displays that hold a driver's attention beyond 'glance appreciation';
 - Displays resembling traffic signs or signals; and
 - A method and level of illumination that distracts or dazzles.

Fire Safety Statements

28. A single and complete Fire Safety Statement (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the Environmental Planning & Assessment Regulation 2000.

The *Fire Safety Statement* must be provided on an annual basis, each year following the issue of the *Fire Safety Certificate* and other period if any of the fire safety measures are identified as a *critical fire safety measure* in the *Fire Safety Schedule*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a properly qualified person and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

GENERAL ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

- A1 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.

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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.

- A2 The assessment of this development application does not include an assessment of the proposed building work under the Building Code of Australia (BCA) and Disability (Access to Premises – Buildings) Standards 2010. All new building work must comply with the BCA and relevant Australian Standards and details of compliance must be provided in the Construction Certificate application.
- A3 The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

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Development Application Compliance Report



Folder /DA No:	DA/469/2011/B
PROPERTY:	14 Eastbourne Avenue, CLOVELLY NSW 2031
Proposal:	Section 96 modification of the approved development by extension of ground and first floors to rear, internal changes, alteration to roof line, alteration to front first floor balcony, increase in width of garage door, increase in level of front patio and deletion of pool
Recommendation:	Approval

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1. Section 96 Assessment

Section 96 of the Environmental Planning and Assessment Act 1979, identifies that a consent authority may, on application being made, modify the consent if:

- a) it is satisfied that the proposed modification is of minimal environmental impact, and
- b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- c) it has notified the application
- d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Substantially the Same Development:

In accordance with Section 96 of the Act, the proposed modifications are not considered to result in a development that will fundamentally alter the originally approved development for basement, ground and first floor alterations and additions. The essence of the development will be substantially the same development as the originally approved development and therefore for the purposes of legislative requirements it is eligible for assessment under Section 96(2) of the Act.

As discussed in the relevant Key issues sections of this report, the proposed modifications will not introduce any significant additional environmental, social or economic impacts on the locality and it is in the public interest to consider the assessment and recommendations made in this report.

Relevant Environment Planning Instruments:

2. State Environmental Planning Policies (SEPPs)

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

The SEPP: BASIX applies to the approved development. The present application seeks to change BASIX affected components of the building and, the application is accompanied with an amended BASIX certificate detailing the required measures.

3. Randwick LEP 2012

Zone R2 Low Density Residential

The subject site is zoned R2 Low Density Residential under Randwick LEP 2012. The proposal is classified as alterations and additions to a dwelling house and is permissible in the zone. The relevant zoning objectives are addressed as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.
- To protect the amenity of residents.

The modifications have been designed to maintain the desirable attributes of the established residential area through providing an articulated development of appropriate scale, that:

- Contributes positively to the housing needs of the community
- Has an apparent density that is consistent with the prevailing residential environment and remains sympathetic to the desirable elements of the streetscape;
- Remains sympathetic to the amenity of neighbouring sites subject to conditions included in the recommendation section of this report; and
- Is an appropriate and suitable use of the subject site.

The following Clauses of RLEP 2012 apply to the proposal:

Description	Council Standard	Approved	Proposed	Compliance (Yes/No/NA)
4.3 Height of Building (Maximum)	9.5m	9.5m	9.5m	Yes
4.4 (2B) Floor Space Ratio	No maximum:	0.74:1* Section 96 A: 0.95:1*	0.93:1 (226.15sqm)	Merit assessment against objectives, under the Development Application report.

*Calculations based on the previous RLEP 1998 (Consolidation) definition of floor area.

4. Randwick Comprehensive DCP

4.1 C1 Table: Low Density Residential

Randwick Development Control Plan

The DCP provisions are structured into two components, Objectives and Controls. The Objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the DCP are addressed in the table below. (Note: a number of control provisions that are not related to the proposal have been deliberately omitted.)

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DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2 Low Density Residential. Modifications of the consent.	
2	Site planning		
	Lot size	242.3sqm	
	Frontage	6.985m skewed front and 6.555 skewed rear boundaries	
2.3	Site coverage		
	Up to 300 sqm = 60%	Proposed reduction of only by 9.84sqm and a total site coverage of 64%.	No. comments below.
	There is only a minor infringement which is not critical to the fate of the application in terms of satisfying the objectives under the RDCP. It is considered that it will not result in any appreciable adverse impacts on the streetscape, storm water pressure or neighbouring properties given that it is located in a part of the site that was already hard surface area, it is located in the rear yard and the proposal also increases the level of permeable landscaping throughout the site.		
2.4	Landscaping and permeable surfaces		
	i) Up to 300 sqm = 20% ii) Deep soil minimum width 900mm.	Originally approved: 10.3% Proposed = 18% deep soil area	No, see comment below.
	Despite the non compliance, it is suitable in so far as permeable landscaping to the site is increasing.		
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m	Proposed = contiguous area of 5.3m by 6m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = no numerical maximum	Merit assessment required	See key issues section in Development application report.
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Original = 9.5m Proposed = 9.5m	Complies
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Existing = 8.2m Proposed = 8.2m	Complies
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining Transition area then merit assessment.	Original = 5.3m and 7.4m at upper floor level Proposed = 4m and 6.55mm due to the	Front setback is suitable in so far as it does not extend beyond the

DCP Clause	Controls	Proposal	Compliance
		increase in size of the upper level balcony	originally approved roof and it will not dominant due to the mix of materials used and the modifications limited to a bulk head and balustrade.
3.3.2	Side setbacks: Semi-Detached Dwellings: <ul style="list-style-type: none"> • Frontage b/w 6m and 8m = 900mm for all levels 	Original = 700mm at ground and 1500mm mostly at 1 st floor level Proposed = no material change	N/A
3.3.3	Rear setbacks <ol style="list-style-type: none"> Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions of this DCP. 	Minimum = 8m Original approval= ground level between 10.5m and 13.15m First floor level between 17.1m and 18.8m Proposed = ground level between 8.9m and 11m. First floor level between = 10m and 11.8m to rear elevation. Balcony is 1.225m closer that is between 8.775m and 10.575m.	Yes. See also key issues section in Development application report regarding privacy impact from side window and rear first floor balcony.
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 		Yes
4.4	Roof Design and Features		
	<ol style="list-style-type: none"> Suitable for existing <ul style="list-style-type: none"> • Celestial windows and skylights Mechanical equipment Contained within roof form and not visible from street and surrounding properties. 	Original roof was amended to reduce view loss to properties at the rear. Proposal seeks to replace this roof with a clerestory roof form maintaining the profile	Yes

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DCP Clause	Controls	Proposal	Compliance
		from the rear properties. Mechanical equipment is located on the balcony	As balcony is deleted, the AC unit has to be relocated. See key issues section of Development application report.
4.6	Earthworks		
	i) excavation and backfilling limited to 1m, unless gradient too steep ii) minimum 900mm side and rear setback iii) Step retaining walls iv) site conditions allow for side or rear setback less than 900mm (max 2.2m) v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced where site has significant slope: vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	Original = no significant excavation was proposed except at basement level Proposed = no further excavation is sought under this application.	N/A
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	Original = satisfactory Proposed = no appreciable loss of solar access during these periods.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level	Original = complied Proposed = continues to comply	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>(existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.</p> <p>vi) Variations may acceptable be subject to:</p> <ul style="list-style-type: none"> • Degree of meeting the FSR, height, setbacks and site coverage controls. • Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. • Topography of the subject and adjoining allotments. • Location and level of the windows in question. • Shadows cast by existing buildings on the neighbouring allotments. 		
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls • living rooms contain windows and doors opening to outdoor areas <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	<p>Site constraints have been suitably considered and measures employed in the development to maximise energy efficiency and natural ventilation.</p>	<p>Yes</p>
5.3	Visual Privacy		
	Windows		
	<p>i) minimise any direct viewing habitable of proposed and neighbours habitable room windows by one or more of the following measures:</p> <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up 1600mm minimum effective sill. - Install fixed privacy screens to windows. - Creating a recessed courtyard 	<p>Original = no privacy impact Proposed = direct overlooking only from side window W26.</p>	<p>No, See key issues section of Development application report.</p>

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DCP Clause	Controls	Proposal	Compliance
	(minimum 3m x 2m). ii) orientate living and dining windows away from similar opposite (that is front or rear or side courtyard)		
	Balcony		
	i) Upper floor balconies to street or rear yard of the site. (wrap around balcony to have a narrow width at side) ii) Privacy screens iii) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) iv) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) v) vi) For sloping sites, step down and avoid large areas of ground floor decks or terraces.	Original = only front balcony sought. Proposed = increase in size of front balcony and new rear balcony. No significant or unreasonable overlooking from front balcony Rear balcony affords outlook across to the rear yards of neighbouring sites rear yards.	No, see key issues section of Development Application report.
	Note: Privacy screens will not effectively ameliorate overlooking, therefore, the rear balcony is required to be deleted as a condition of consent and the doors behind are conditioned to be reduced in size to be consistent with the size of the windows approved under S96 A.		
5.4	Acoustic Privacy		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows Attached dual occupancies ii) Reduce noise transmission between dwellings by: - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer.	Original = no acoustic privacy impacts Proposed = relocation of the AC unit to the balcony which is conditioned to be deleted requires relocation. It is not considered suitable to locate it on the roof as it will be directly adjacent to the rear yard of the neighbour's rear yard.	See Key issues section of Development application report.
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) retaining existing views from the living areas are a priority over low use rooms iii) retaining views for the public domain takes priority over views for the private properties iv) fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing	Original = acceptable level of view sharing Proposed = main profile of the roof is maintained	Yes

DCP Clause	Controls	Proposal	Compliance
	vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)		
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street or iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages and scale of the front elevation vi) Avoid long driveways (impermeable surfaces)	Original = single door width Proposed = increased width to 3.4m	Yes, given that despite the increase in width it is consistent with the relative width of garage door openings at the front of other sites along Eastbourne Avenue.
7	Fencing and Ancillary Development		
7.6	Air conditioning equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.		Yes subject to condition
8.3	Foreshore Scenic Protection Area		
	i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated. ii) Integrated outbuildings and ancillary structures with the dwelling design (coherent architecture). iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues). iv) Must not use high reflective glass v) Use durable materials suited to coast vi) Use appropriate plant species	Proposed = The building facades remain suitably articulated with windows, balconies and a mix of materials and finishes, minimising the scale of the development as viewed along the streetscape and the public domain and will contribute to the character of foreshore area.	Yes

DCP Clause	Controls	Proposal	Compliance
	vii) Provide deep soil areas around buildings viii) Screen coping, swimming and spa pools from view from the public domain. ix) Integrate rock outcrops, shelves and large boulders into the landscape design x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.		

5. Section 94A Contributions

The applicant does not include an estimate of the amended cost of works. An assessment of the proposed modifications against 2014 edition of Cordell’s indicates an additional cost of the \$85,017.60 to the original development (\$487,500) resulting in the total approximated estimated cost of works valued at \$563,517.60 set out as follows:

Ground level addition (\$1644.71/sqm): \$15,354 (9.34sqm)
 First floor weatherboard walls (\$1,660.68/sqm): \$33,213.60 (20sqm)
 En-suite = \$16,200.00
 Original estimated cost of works = \$487,500.00 (Contribution under condition 11 = \$4,875.00)

Previously approved section 96 for basement works: 9m x 5m x average of 900mm depth = 40.5 cubic metres: (excavation per unit = \$500) = \$20,250.00

Amended estimate cost of works = \$563,517.60
 Total amended S94A contribution = \$5,635.17

Condition 11 of the original consent is required to be amended.

6. 79C Matters for consideration

Section 79C ‘Matters for Consideration’	Comments
Environmental Planning Instruments	
Section 79C(1)(a)(i) – Provisions of any environmental planning instrument	Randwick Local Environmental Plan 2012 The site is zoned R2 Low Density Residential under RLEP 2012. The proposal is permissible with Council's consent. The proposal is consistent with the aims of RLEP 2012 and the specific objectives of the zone in that the built form, as amended will not compromise the aesthetic character, environmental qualities and social amenity of the locality.
Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument	None applicable
Section 79C(1)(a)(iii) – Provisions of any development control plan	Relevant provisions of the RDCP 2013 are discussed above.
Section 79C(1)(a)(iiia) – Provisions of any	None applicable

Section 79C 'Matters for Consideration'	Comments
Environmental Planning Instruments	
Planning Agreement or draft Planning Agreement	
Section 79C(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 79C(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment, which are otherwise not addressed in this report, are discussed in the paragraphs below.</p> <p>The proposed development is consistent with the dominant residential character in the locality. The proposal would not considered result in detrimental social or economic impacts on the locality.</p>
Section 79C(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 79C(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 79C(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

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7. Referral Comments

Development Engineering

An application has been received to modify development consent for alterations and additions at the above site.

The modifications to the development consent include the proposed extension of the existing council driveway.

This report is based on the following plans and documentation:

- Architectural Plans by M Folk and dated 10/2/14;
- Statement of Environmental Effects by Willana Associates

8. DEVELOPMENT CONSENT CONDITIONS

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

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:

<i>Plan Number</i>	<i>Dated</i>	<i>Received</i>	<i>Prepared By</i>
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DA01a	2/11/11	4 November 2011	Michael Folk Architects and Interiors Pty. Ltd.
DA02a	2/11/11		
DA05a	2/11/11		

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received</i>
A115876	23 June 2011	27 June 2011

as amended by the following Section 96 details:

<i>Plan Number</i>	<i>Dated</i>	<i>Received</i>	<i>Prepared By</i>
DA01b	1/03/12	18 April 2012	Michael Folk Architects and Interiors Pty. Ltd.
DA02b	1/03/12		

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received</i>
A115876_03	1 March 2012	18 April 2012

As amended by the following Section 96 details:

<i>Plan Number</i>	<i>Dated</i>	<i>Received</i>	<i>Prepared By</i>
S9601[C]	10/02/14	12 February 2014	Michael Folk Architects and Interiors Pty. Ltd.
S9602[C]	10/02/14		

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received</i>
A115876_04	11 February 2014	12 February 2014

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:

- **Add the following Conditions to Condition No. 3:**

Amendment of Plans & Documentation

3. The approved plans and documents must be amended in accordance with the following requirements:
 - iv) The rear balcony shall be deleted from the development and roof beyond the rear elevation installed in its place. The rear first floor glass doors shall be replaced with windows with a minimum sill height of 1.2m above the internal floor level.
 - v) The following window must have a minimum sill height of 1.6m above floor level, or alternatively, the window is to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:
 - West facing first floor window to the master bedroom (W26)

Details demonstrating compliance with the conditions above shall be submitted to Council for approval prior to a (amended) Construction Certificate being issued for the development.

Note: An amended BASIX certificate is required to be submitted to Council and the PCA in accordance with the amendments required above.

- **Amend Condition No. 11 to read:**

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Section 94A Development Contributions

11. In accordance with Council's Section 94A Development Contributions Plan effective from 12 July 2012, based on an added development cost of \$85,017.60 to a total of \$563,517.60, the following applicable monetary levy must be paid to Council: \$5,635.17

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.

- **Delete Conditions Nos 45, 46, 47, & 48**
- **Add the following condition:**

Council's Infrastructure, Vehicular Crossings, street verge

51a) The applicant must meet the full cost for a Council approved contractor to:

- Reconstruct/extend the concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to council's requirements. This condition must be satisfied prior to the must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'. Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated
- **Delete Condition No. 60.**

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